

China Insights

Huawen Liu

China's Path of Human Rights Development

 中国社会科学出版社
CHINA SOCIAL SCIENCES PRESS

 Springer

China Insights

Chairman of Editorial Board

Wang Weiguang

Vice Chairman of Editorial Board

Li Yang (Standing Executive), Li Peilin, Cai Fang

Editorial Board

Bu Xianqun, Cai Fang, Gao Peiyong, Hao Shiyuan, Huang Ping, Jin Bei, Li Lin, Li Peilin, Li Yang, Ma Yuan, Wang Lei, Wang Weiguang, Wang Wei, Yang Yi, Zhou Hong, Zhao Jianying, Zhuo Xinpeng

This book series collects and presents cutting-edge studies on various issues that have emerged during the process of China's social and economic transformation, and promotes a comprehensive understanding of the economic, political, cultural and religious aspects of contemporary China. It brings together academic endeavors by contemporary Chinese researchers in various social science and related fields that record, interpret and analyze social phenomena that are unique to Chinese society, its reforms and rapid transition. This series offers a key English-language resource for researchers and students in China studies and related subjects, as well as for general interest readers looking to better grasp today's China. The book series is a cooperation project between Springer and China Social Science Press of China.

More information about this series at <https://link.springer.com/bookseries/13591>

Huawen Liu

China's Path of Human Rights Development



Huawen Liu
Institute of International Law
Chinese Academy of Social Sciences
Beijing, China

Translated by
Xiaoqing Bi
CASS Law Institute
Beijing, China

ISSN 2363-7579
China Insights
ISBN 978-981-16-3980-7
<https://doi.org/10.1007/978-981-16-3981-4>

ISSN 2363-7587 (electronic)
ISBN 978-981-16-3981-4 (eBook)

Jointly published with China Social Sciences Press
The print edition is not for sale in China (Mainland). Customers from China (Mainland) please order the print book from: China Social Sciences Press.

Translation from the Chinese language edition: *中国的人权发展道路* by Huawen Liu, and Xiaoqing Bi,
© China Social Sciences Press 2018. Published by China Social Sciences Press. All Rights Reserved.
© China Social Sciences Press 2022

This work is subject to copyright. All rights are reserved by the Publishers, whether the whole or part of the material is concerned, specifically the rights of reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

The publishers, the authors, and the editors are safe to assume that the advice and information in this book are believed to be true and accurate at the date of publication. Neither the publishers nor the authors or the editors give a warranty, express or implied, with respect to the material contained herein or for any errors or omissions that may have been made. The publishers remain neutral with regard to jurisdictional claims in published maps and institutional affiliations.

This Springer imprint is published by the registered company Springer Nature Singapore Pte Ltd.
The registered company address is: 152 Beach Road, #21-01/04 Gateway East, Singapore 189721, Singapore

Series Foreword

Since the Opium War, modern China has come under attack and been bullied for its backwardness; this cultural circumstance has given many Chinese people a psychological inferiority complex, as China has lagged behind other countries technologically, institutionally and culturally. Efforts to change the situation in which Western countries were strong but China was weak and to revitalize China needed to start with cultural criticism and culture renovation. Therefore, the Chinese people turned their eyes to the outside world and learned from Japan, Europe, the USA and even Soviet Russia. We have always been overwhelmed by stress and anxiety and have had a burning desire to reverse the state of being bullied as a result of underdevelopment, poverty and weakness and to catch up with and surpass the Western powers. In pursuing the more than one-hundred-year-old dream of building a powerful country and reviving China, we have focused on understanding and learning from others, but seldom, if ever, have others learned from and understood us. This has not greatly changed in the course of modernization since China's reform and opening-up in 1978. The translation and introduction of many Western works in the 1980s and 1990s is a very good example. This is the history of the Chinese people's understanding of the relationship between China and the rest of the world since the beginning of modern times.

At the same time, in pursuing the dream of turning China into a powerful country and rejuvenating it through material (technological) criticism, institutional criticism and cultural criticism, the Chinese people have struggled to find a path that would make the country prosperous and the people strong while preventing the country from being ruined and the race from being destroyed. This path first represents a thought, a banner and a soul. The key issue has been what kind of thought, banner and soul can save the country, making it prosperous and the people strong. For more than one hundred years, the Chinese people have constantly carried out experiments and attempts amidst humiliation, failure and anxiety. They have experienced failure in adopting advanced Western technology and thought on the basis of safeguarding China's feudal system and practicing a constitutional monarchy after the collapse of the Western capitalist political path and a great setback in worldwide socialism in the early 1990s. The Chinese people ultimately embarked on a path toward a successful revolution with national independence and liberation; in particular, they have adopted

a path leading to the socialist modernization of China—a road toward socialism with Chinese characteristics—by combining the theoretical logic of scientific socialism with the historical logic of China’s social development. After more than 30 years of reform and opening-up, China’s socialist market economy has rapidly developed; tremendous achievements have been made in economic, political, cultural and social constructions; comprehensive national strength, cultural soft power and international influence have substantially improved; and a great success has been achieved in socialism with Chinese characteristics. Although the latter project has not yet become full-fledged, its systems and institutions have basically taken shape. After more than one hundred years of pursuing dreams, China is rising among the nations of the world with a greater degree of confidence in the path it has chosen, the theory it has adopted, and the institutions it has created.

Meanwhile, we should be aware that given the long-standing cognition and cultural psychology of learning from Western countries, we seldom take the initiative in showcasing ourselves—historical China and current China in reality—to the world, though China has emerged as a great world power. Due to a deeply rooted view that “Western countries are strong and China is weak,” developed through Western Chinese cultural exchanges, Western people and nations seldom have a sense of Chinese history or the current developments in China, let alone an understanding of China’s developmental path and such in-depth issues as the scientificity and effectiveness of China’s theory and institutions or their unique value for and contributions to human civilization. As self-recognition is not displayed, the “China Collapse Theory,” “China Threat Theory,” “China State Capitalism” and other so-called theories coined by certain people with ulterior motives and differing political views have been widely spread.

During our development, based on “crossing the river by feeling the stones,” we have paid attention to learning from Western countries, understanding the world and learning to know ourselves through Western experience and discourse but have neglected self-recognition and efforts to let others know us. When we strive to become part of the world in a more tolerant and friendly way, we are not objectively, truly understood. Therefore, we should describe the path to the success of socialism with Chinese characteristics, tell Chinese stories, disseminate Chinese experiences, use international expressions to show a real China to the world and help people around the world realize that the Western manner of modernization is not the endpoint of human historical evolution and that socialism with Chinese characteristics is also a valuable treasure of human thought. This is undoubtedly a very important task for an academic cultural researcher with a sense of justice and responsibility.

In this connection, the Chinese Academy of Social Sciences organized its top-notch experts and scholars and several external experts to write the China insights series. This series not only provides an overview of China’s path, theories and institutions but also objectively describes China’s current development in the areas of political institutions, human rights, the rule of law, the economic system, finance, social governance, social security, population policies, values, religious faith, ethnic policies, rural issues, urbanization, industrialization, ecology, ancient civilization,

literature, art, etc., thus depicting China in a way that helps readers visualize these topics.

We hope that this series will help domestic readers more correctly understand the course of the more than 100 years of China's modernization, more rationally look at current difficulties, enhance the urgency for and national confidence in comprehensively intensifying reform, build a consensus on reform and development and gather strength in this regard, as well as deepen foreign readers' understanding of China, thus fostering a better international environment for China's development.

Beijing
January 2014

Zhao Jianying

Contents

The Chinese Dream and the Chinese Road of Human Rights Development	1
The Chinese Dream Is Also a Human Rights Dream	2
Three Dimensions of the Chinese Road of Human Rights Development: The Rule of Law, Development and Human Rights	5
40 Years of Reform and Opening-Up and the Road of Human Rights Development in China	14
References	28
Economic, Social and Cultural Rights	31
Economic, Social and Cultural Rights as the “Second Generation of Human Rights”	32
Measures for Safeguarding Economic, Social and Cultural Rights	36
Achievements and Challenges	48
References	61
Civil and Political Rights	63
Civil and Political Rights as the First-Generation Human Rights	64
Measures for Safeguarding Civil and Political Rights	70
Achievements and Challenges	81
References	99
Women’s Rights	101
Women’s Rights as Human Rights	102
Measures Taken by China for the Protection of Women’s Rights	109
Achievements and Challenges	114
References	119
The Right of the Child	121
The Rights of the Child Are Human Rights	122
Measures for the Protection of the Rights of the Child	125
Achievements and Challenges	130
References	138

Rights of Ethnic Minorities	139
The System of Regional Ethnic Autonomy as a Basic Political System in China	140
Measures for the Protection of Rights of Ethnic Minorities	147
Achievements and Challenges	151
References	160
The Rights of the Elderly	161
The New Concept of Protection of the Rights of the Elderly	162
Measures Taken by China for the Protection of the Rights of Older Persons	168
Achievements and Challenges	175
References	180
Rights of Persons with Disabilities	181
A New Understanding of the Protection of the Rights of Persons with Disabilities	182
Measures Taken by China for Protecting the Rights of Persons with Disabilities	186
Achievements and Challenges	193
References	201
China and International Human Rights Governance	203
The United Nations and the Mainstreaming of Human Rights	204
China's Active Participation in the UN Human Rights Work	209
Actively Promoting International Human Rights Governance	215
References	220
Bibliography	223
Index	227

The Chinese Dream and the Chinese Road of Human Rights Development



According to China National Human Development Report 2016 (hereafter referred to as the Report), which took the UNDP China and the Development Research Center of the State Council of China two years to complete and was released in Beijing on August 22, 2016, China's Human Development Index (HDI) indicated that China had entered into a phase of "high human development" and was one of the countries with the rapidest progress in the field of human development in the past 30 years.

In the 1980s, China was still in the group of countries with low human development; after 1995, China was classified as having a medium level of human development; after 2010, China's HDI exceeded the world average; and in 2011, China achieved high-level human development. Out of 47 countries in the low human development group in 1990, China was the only country that had moved into the high-level group.

The report points out that human development in China captures several key indicators such as income, poverty reduction, health and education, and the rapid economic development has played a vital role in promoting the human development in the country. The economic reforms since the end of 1970s had eliminated constraints imposed by the planned economy and unfettered the country's economic growth potential. China had maintained economic growth at the levels of nearly 10% for over 30 years. During the 30 years from 1980 to 2010, China's income index enjoyed larger increases than any other country in the world. An analysis of the factors of HDI growth in China shows that economic (income) growth over the 30 years contributed 56.26% to China's HDI growth and 65.53% between 1980 and 1990. Rapid income growth has lifted large numbers of China's citizens out of poverty, improving material standards of living and offering more choices and opportunities to millions of people. China has achieved universal compulsory education, basically realized the goal of enabling everyone to go to school and greatly improved the equality in compulsory education. However, there remains a large disparity between urban and rural areas in the quality of education. Children of migrant workers are faced with barriers in receiving compulsory education in cities where their parents work. The "school picking" phenomenon is still widespread in cities. And the senior

high school enrollment rates in ethnic minority areas are lower than the national average. Chinese people enjoyed comparatively good health conditions before the reform and opening-up. China's health indicators have continued to improve since the 1980s. China's average life expectancy increased from 67.9 in 1981 to 74.8 in 2010, which was above the world average of 70. Especially between 2000 and 2010, life expectancy in China further increased by 3.4 years, suggesting accelerated progress.

China, the biggest developing country in the world with a huge population and vast territory, has also become the fastest developing country in the world. This development, which is "human development" as well as the progress in the safeguarding of human rights, can be described as "huge."

China's ideal and pursuit of human rights are closely related to the "Chinese Dream" put forward by the Chinese President Xi Jinping. An ancient civilization with a long and splendid history and culture, China, had endured impoverishment and long-standing debility and suffered from the aggression of Western colonial powers and Japanese imperialists in the modern history. With the establishment of the People's Republic, China, starting from "poverty and blankness," re-embarked on the road of development, prosperity and rejuvenation. The Chinese people have stood up and become increasingly strong. The Chinese Dream embodies the development idea, including the vision of better enjoyment of human rights of the Chinese people.

The Chinese Dream Is Also a Human Rights Dream

A new amendment to the Chinese Constitution, adopted at the First Session of the Thirteenth National People's Congress (NPC) on March 11, 2018, adds the sentence "The leadership of the Communist Party of China (CPC) is the defining feature of socialism with Chinese characteristics" after the sentence "The socialist system is the fundamental system of the People's Republic of China" in Article 1 Paragraph 2 Chapter I (general principles) of the Constitution, thereby enriching the constitutional provision on adhering to and strengthening the comprehensive leadership of the CPC and providing constitutional law basis for the claim that the CPC is the ruling party and the highest force of political leadership in China. The economic development and social progress in China in the past 70 years have been realized under the leadership of CPC and the Chinese Government, and the correct and strong leadership of the CPC and the Chinese Government over the state and society is an effective safeguard for the realization of socialist modernization in China.

The Constitution of the CPC, which was partially amended at the 19th National Congress of the CPC on October 24, 2017, clarifies the position and responsibility of the CPC by providing that: "The CPC is the vanguard of the Chinese working class, the Chinese people, and the Chinese nation. It is the leadership core of the cause of socialism with Chinese characteristics and represents the developmental demands of China's advanced productive forces, the orientation of China's advanced culture, and the fundamental interests of the greatest possible majority of the Chinese people."

With respect to human rights, the Constitution of the CPC clearly states in the general program that the CPC will “respect and safeguard human rights,” “gradually eliminate poverty and achieve common prosperity,” “keep meeting the people’s ever-growing needs for a better life and promote people’s well-rounded development on the basis of developing production and social wealth,” “commit itself to a people-centered philosophy of development” and “ensure that development is for the people and relies on the people, and that its fruits are shared among the people.”

At its Eighteenth National Congress held in 2012, the CPC realized the transition of its leadership, which laid the foundation for the transition of state leadership in China. At the Twelfth NPC, held in March 2013, a new state leadership with State President and Party General Secretary Xi Jinping as core was elected. The Report to the Eighteenth National Congress points out that: “We are convinced that, thanks to over 90 years of hard struggle, our Party has rallied and led the people of all ethnic groups of the country in turning the poor and backward old China into an increasingly prosperous and powerful PRC and opening up bright prospects for the great renewal of the Chinese nation. We are all the more proud of the historic achievements of the Party and the people, we are all the more firm in the ideal and conviction of the Party and the people, and we are all the more aware of the historic responsibility of the Party.” On the basis of this conviction, the collective leadership with Xi Jinping as the core has put forward the policy goal of endeavoring to realize the “Chinese Dream.”

At the First Session of the Twelfth NPC, held on March 17, 2013, General Secretary Xi Jinping was elected the President of China and the Chairman of Central Military Commission. In a speech given at the closing ceremony of the session, Xi Jinping mentioned “Chinese Dream” nine times and made a solemn promise to the Chinese people: “The Chinese Dream is, in the final analysis, the dream of the people, which can be realized only by firmly relying on the people and which must continuously benefit the people.” He pointed out that: “The Chinese Dream is the dream of the Chinese nation as well as the dream of every Chinese. As long as we are united as one and make joint effort, we will have immense power to realize our common dream, and each and every one of us will have broad space to realize his or her own dream. All the Chinese living in our great country in this great age share the opportunity to pursue excellence, to realize our dreams, and to develop and make progress along with our country. With dreams, opportunities and efforts, all beautiful things can be created.”¹

On the same day, a press conference was held by Mr. Li Keqiang, the newly elected Prime Minister of China, and four vice prime ministers. In answering the questions raised by Chinese and foreign reporters at the press conference, Mr. Li Keqiang pointed out that: “It is the reform and opening-up that has changed the fate of our nation, lifted hundreds of millions of farmers out of poverty, and brought about major turning points in the life of countless people. Now the heavy responsibility of the reform has fallen on the shoulders of our generation. We must strive to make it possible for all the Chinese people to benefit from the dividend of the reform,

¹ Xi [1].

enable the old to spend their remaining years in comfort, give hope to the young, and invigorate the nation.”²

On September 25, 2015, President Xi Jinping, while visiting the USA, pointed out that: “The process in which the Chinese people realize the Chinese dream of the great rejuvenation of the Chinese nation is in essence a process of realization of social fairness and justice and continuous advancement of the human rights cause.”³ Therefore, respecting and safeguarding human rights and promoting the realization of the dream in everyone’s heart are the concentrated embodiment of the beautiful vision of the Chinese Dream, which, in turn, is the classical summarization and vivid expression of the long-term and short-term ideals of the Chinese state, nation, society, family and individuals.

The five years since the Eighteenth National Congress of the CPC in 2012 have been an extraordinary period in the development process of China. Faced with the external environment of weak world economic recovery, frequent local conflicts and turmoil, and the intensification of global problems and the internal environment of the advent of “the new normal” of the Chinese economy and a series of profound changes in Chinese society, the Chinese Government has adhered to the keynote of pursuing progress while ensuring stability and, by rising to the challenges and forging ahead, made historical achievements in the reform and opening-up and in the socialist modernization. To implement the spirit of the Eighteenth National Congress of CPC, the Eighteenth CPC Central Committee has held seven plenary sessions to make decisions on and arrangements for such major tasks as reforming government institutions and transforming government functions, comprehensively deepening the reform, advancing the law-based governance in an all-round way, adopting the “Thirteenth Five-Year Plan,” and comprehensively strengthening party discipline. For example, at the Fifth Plenary Session of the Eighteen CPC Central Committee, General Secretary Xi Jinping systematically expounded the idea of “innovative, coordinated, green, open and shared development,” which is closely related to the thinking, method and focal point of the development in China during the period of the Thirteenth Five-Year Plan (2016–2020) and beyond, embodies the further deepening and a new leap forward of the CPC’s understanding of the law of development and enriches and develops the theory of socialism with Chinese characteristics.

In a report given at the Nineteenth National Congress of the CPC in October 2017, General Secretary Xi Jinping clearly pointed out that the principal contradiction facing Chinese society in the new era is that between unbalanced and inadequate development and the people’s ever-growing needs for a better life. The CPC must therefore continue to commit itself to the people-centered philosophy of development and work hard to promote the well-rounded human development and common prosperity for everyone. He reiterated that the overall plan for building socialism with Chinese characteristics is a five-sphere integrated plan (namely a coordinated overall plan for economic development, political development, cultural development, social development and ecological civilization construction), and the overall strategy

² Xinhuanet [2].

³ Du and Chen [3].

is a four-pronged comprehensive strategy (namely building a moderately prosperous society in all respects, comprehensively deepening the reform, advancing law-based governance in an all-round way and comprehensively strengthening party discipline).

To China, the largest developing country in the world, the Chinese Dream is, in the final analysis, also a development dream and a human rights dream. The Chinese philosophy of development is advancing with the times and exerting a profound influence on the realization and safeguarding of human rights in China.

The theoretical system of socialism with Chinese characteristics, as the latest achievement of Marxism and its Sinicization, indicates the correct direction and interprets the spiritual core of the Chinese Dream. It is the ideological guideline that guides China to unswervingly follow the path of socialism with Chinese characteristics and a powerful spiritual weapon that unites the thought of and builds consensus among all party member and all the people in China. The strong leadership of the CPC is the organizational guarantee of the realization of the Chinese Dream⁴ and Xi Jinping's Thought of Socialism with Chinese Characteristics in a New Era, established at the Nineteenth National Congress of CPC, is the concentrated embodiment of this theoretical system.

It can be said that the Chinese road of human rights development is a great practice carried out by the CPC and the Chinese Government on the basis of the confidence in the path, theory, system and culture and under the guidance of the socialist outlook on human rights with Chinese characteristics, and that the Chinese Dream is a vivid summarization of this great practice.

Three Dimensions of the Chinese Road of Human Rights Development: The Rule of Law, Development and Human Rights

The Chinese culture emphasizes integrative thinking. As far as human rights are concerned, the Chinese people do not like to look at and discuss them in isolation. Then what are the factors that are inevitably connected with human rights? The development of human rights cause is an organic part integrated into the overall development process in China. An observation of the development path in China reveals that it has three main lines or basic dimensions, namely the rule of law, development and human rights, which are complementary and closely related to each other. On the one hand, the development condition of any one of them will affect the other two; on the other hand, the three constitute an organic whole, a comprehensive, balanced, healthy and sustainable basic framework, to which none of them is dispensable.

1. The Rule of Law

⁴ Wang [4].

The rule of law is the basic mode of state governance in a modern society. It is worth noting that the first law promulgated by the People's Republic of China (PRC) after its establishment was the Marriage Law. Promulgated on May 1, 1950, this law was aimed at liberating women, safeguarding their freedom of marriage and giving them the right to have equal status with men. This means that the Chinese law has been people-oriented and attached importance to the protection of human rights, especially women's rights, from the beginning.

As a country with long history and cultural tradition, China has undergone an arduous road with many twists and turns toward embracing the modern idea of the rule of law. As a summarization of experiences gained and lessons learnt in the past, the Communiqué of the Third Plenary Session of the Eleventh Central Committee of the CPC, adopted in December 1978, clearly pointed out that: "The citizens' rights provided for in the Constitution must be resolutely safeguarded and protected from the infringement by any person."⁵

The 1982 Constitution once again sets up a special chapter on the protection of the fundamental rights of citizens and makes it the first chapter of the document, after the general principles and before the chapter on "State Structure," so as to highlight its importance and superior status. On March 14, 2004, a new amendment to the Constitution was adopted with a vote of 2863 at the Second Session of the Tenth NPC. It was through this amendment that the provision "The state respects and protects human right" was added to the Constitution.

As the opposite of the rule of man, the rule of law is the basis of strengthening the achievements of social development (including institutional achievements), upholding normal social order and safeguarding democracy. Only by ruling the country by law, can China guarantee the stability and sustainable development of the country. The rule of law is a blessing for every citizen and individual. The support of the rule of law is indispensable for the claim of rights and upholding of justice, whether by individuals or groups.

Taking the Constitution as the basis, China has achieved significant progresses in the construction of the legal system of human rights protection. On January 24, 2011, Mr. Wu Bangguo, the then Chairman of the NPC Standing Committee, declared that a multi-level socialist system of law with Chinese characteristics had already taken form. This system is based on the national conditions of China and adapted to the needs of reform, opening-up and socialist modernization, embodies in a concentrated way the will of the party and the will of the people, takes the Constitution as the key, other constitutional laws and the civil law, the commercial law and other branch laws as the backbone and consists of different levels of legal norms, including laws, administrative regulations and local regulations. The formation of this system has ensured that there is law to go by in the economic, political, cultural and social construction and laid a solid foundation for the development of human rights cause in China.

⁵ Quoted from *the Communiqué of the Third Plenary Session of the Eleventh Central Committee of the CPC*, adopted on December 22, 1978.

The legislative work and its progress have a clear value objective, or core driving force—respecting and safeguarding human rights. On March 16, 2007, the Chinese Property Law, after eight deliberations with extensive social participation, was adopted by an overwhelming majority vote at Fifth Session of the Tenth NPC. This law, which directly involves the property rights of citizens and takes the real right as its objects of adjustment, is aimed at protecting human rights. On March 8, 2012, a new amendment to the Criminal Procedure Law was deliberated at the Fifth Session of the Eleventh NPC. The amendment enshrines the principle of “respect and protect human rights” into Article 1 of the law, improves the system exclusion of illegally obtained evidence, prohibits forced self-incrimination and further specifies legal status of defense lawyers at the stage of investigation. An overview of the development process of Criminal Procedure Law in China shows that the Chinese criminal justice ideology is evolving from the one that one-sidedly emphasizes the fight against crime to one that attaches equal importance to the fight against crime and safeguarding human rights. The formation of the socialist system of law has, on a whole, solved the problem of “there being no law to go by” in China. Although China needs to continue the legislative work, now it is faced with the more urgent task of ensuring that the law is strictly observed and enforced and that law breakers are held accountable. The vitality of law lies in its implementation. It can be said that the implementation of law is the key link in the legal safeguard for the realization of human rights.

Since the Eighteenth National Congress of the CPC, the new central collective leadership has especially emphasized the fight against corruption and achieved great results in this respect. Anyone, including high-ranking government officials, should be investigated for criminal responsibilities, as long as he becomes corrupt and violates the law. In some cases, high-ranking government officials have been investigated and punished for corruption, and these cases show the unprecedented determination and strong will of the ruling party and the government in China to fight against corruption. In reviewing and reflecting on these corruption cases, the author of this book holds that the harms caused by the corruption of leading cadres lie not only in the money and property they have embezzled, but more importantly, also in the damages they have done to the rule of law in the country. On the surface of it, it seems that their rule of man work style can also bring about rapid development in a certain area or certain sector within a short period of time and help them to make marked achievements in their official career. However, in the long run and on the whole, they have not only sacrificed and infringed upon the rights of some individual citizens and the general public and impeded the comprehensive and sustainable economic and social development, but also undermined the authority of the rule of law as well as the long-term stability of the state and society.

Adhering to the development road of the rule of law is the result of drawing on the governance experience both in China and abroad in both ancient and modern times and ruling the country by law has become an unshakable basic strategy of state governance adopted by the CPC and the Chinese Government. It should be pointed out that the content of the rule of law currently discussed in China includes international rule of law. In recent years, some foreign governments and media, motivated by

political purposes, have advocated the “legal war” against China in such fields as the law of sea on the pretext of “China’s non-compliance with international law.”⁶ Actually, China is a state party to the Convention on the Law of Sea, whereas the USA, which frequently accuses others of violating the law of sea, is not. China, as an ancient civilization that has suffered from imperialism and colonialism to the fullest extent, is a victim of the old international legal order. China has become a staunch supporter of the new political, economic and legal order and is endeavoring to play a constructive role in the establishment of this new order at present.

China, together with India and Burma, proposed in 1954 the Five Principles of Peaceful Coexistence as the basic standard for dealing with relations between states. In June, 2014, the Chinese Government solemnly commemorated the 60th anniversary of the declaration of the Five Principles of Peaceful Coexistence and put forward the objective of further enriching and developing basic principles of international law and promoting the international rule of law, world peace and development.⁷ In March 2018, the idea of “building a community with a shared future for mankind” was enshrined in the Preamble of the newly revised Chinese Constitution, thereby putting forward new ideas of and making new contributions to international governance.

China, as a member of the UN Human Rights Council, attaches high importance to international exchange and cooperation in the field of human rights and has actively promoted the development of the rule of law and the human rights cause in the country through the implementation of the human rights conventions already ratified by it.

In general, respecting and safeguarding human rights are the core values and fundamental objectives of the rule of law because the objective of the rule of law lies not in itself, but in the people’s welfare, social stability and good state governance. Meanwhile, the rule of law is inseparable from economic basis and the social culture and the rule of law consciousness, without the support of which it will become water without a source or a castle in the air. The construction of the rule of law must be adapted to the level of social development. It is and will continue to be based on the national situation and aimed at promoting the people-oriented scientific development and the better and faster advancement of the human rights cause in China.

2. Development

Before the establishment of the PRC, the Chinese people had suffered from the oppression of the three big mountains of imperialism, feudalism and bureaucrat-capitalism, as a result, were poor and weak, and unable to enjoy human rights. This special historical experience enables the Chinese people to deeply realize that, as far as a state or a nation is concerned, human rights are first and foremost the right to independence and right to subsistence, without which there will be no other human rights to talk about. Subsistence and development have been the first priorities of the PRC.

⁶ See “The US, Japan, The Philippines and Viet Nam Are Fermenting ‘Legal War’ Against China”, in *Reference News*, June 5, 2014, pp. 1–2.

⁷ Xi [5].

After its establishment in 1949, the PRC was faced with complicated international situation in which the Eastern and Western countries rapidly entered into a period of Cold War after the end of the Second World War. Mr. Zhou Enlai, as one of the founders of the diplomacy of the PRC, put forward the idea that the contradiction between peace and war was the main contradiction in the world that upholding world peace was the primary goal of the Chinese diplomacy, and that peace policy was the basic policy Chinese diplomacy. The Five Principles of Peaceful Coexistence were put forward against this historical background as a diplomatic strategy. As an independent foreign policy of peace, it has changed the understanding of socialist China by the outside world, enabled China to first make breakthroughs in its relations with neighboring countries in Asia and then quickly gain acceptance by great number of third world countries, and becomes a classic institutional position and proposition in the fight against imperialism, colonialism and hegemonism, in the peaceful coexistence of different countries, and in peaceful resolution of international disputes in the several decades after the Second World War.

Meanwhile, the socialist economic construction in China has also been advancing through twists and turns. Especially in the 40 years since the reform and opening-up, China has made remarkable achievements in the construction of socialist market economy. As a result of rapid economic development, now China has become the second-largest economy in the world. In fact, China's understanding of the intension and extension of development and the tasks of development have been evolving with the passage of time and the change of national conditions, undergoing a process of advancement with the times and continuous exploration.

What are the foothold and the objective of the development path in China? From the human rights point of view, China's position on this question is that the right to subsistence and the right to development are the primary human rights, as well as the basis of enjoyment of all other human rights. With the right to subsistence and the right to development, there will be no other human rights to talk about. This is a basic conclusion on the human rights issue made by the Chinese people on the basis of their own history and national condition, as well as an important viewpoint with universal significance and value.⁸ On November 1, 1991, the Information Office of the State Council released a white paper entitled *The Human Rights Situation in China*. As the first official document on human rights released by the Chinese Government to the outside world, it makes a systematic summarization and in-depth analysis of the human rights situation in China and, on the basis of the national situation in China, clearly declares that: "The right to subsistence and the right to development are the primary human rights in China."⁹

Economic construction is of very direct and clear importance to the solution of the subsistence problem of hundreds of millions of people. Therefore, for a long period of time since the beginning of reform and opening-up, China has taken economic construction as the core of its development strategy. In 2002, the CPC put forward at its Sixteenth National Congress the new task of "three-in-one" socialist economic,

⁸ Dong and Chang [6].

⁹ Li and Guo [7].

political and cultural construction. At its Seventeenth National Congress in 2007, it put forward the “four-in-one” overall arrangement for the economic, political, cultural and social development, which embodies unprecedented emphasis on social construction. At its Eighteenth National Congress in 2012, the CPC formally put forward the “five-in-one” development pattern, namely the new idea of comprehensive and scientific development that gives equal consideration to economic, political, cultural, social and ecological construction. At its Nineteenth National Congress in 2017, the CPC stressed the adherence to the new development idea. Party General Secretary Xi Jinping pointed out in a report given at the Congress that the development is the underpinning and the key for solving all our country’s problems; our development must be sound development. We must pursue with firmness of purpose the vision of innovative, coordinated, green and open development that is for everyone. China’s development pattern and development idea embody the people-oriented outlook on scientific development, the purpose of which is to overcome such shortcomings of the old development outlook as one-sidedly pursuing economic growth while ignoring spiritual progress, social justice, environmental and resource protection and the human factors of development and to ensure that development is for the people, by the people and with the people sharing in its fruits.

What are the objectives of the human rights cause in China? The National Human Rights Action Plan of China (2012–2015), issued by the Information Office of the State Council on June 11, 2012, provided for the following guiding ideology of the formulation and implementation of the Action Plan: “... the Chinese Government combines its human rights endeavors with economic, political, cultural, social and ecological construction. To satisfy the aspirations of its people of all ethnic groups for living a better life, it continuously prioritizes people’s rights to subsistence and development, vigorously safeguards and improves people’s livelihood, spares no efforts to solve the problems of the utmost and immediate concern to the people, practically safeguards citizens’ economic, political, social and cultural rights and promotes social equity and harmony, so as to ensure that every member of society live a happier and more dignified life.”

What is the relationship between the human rights cause and development in China? The white paper *Progress in China’s Human Rights in 2012*, released by the Information Office of the State Council on May 14, 2013, answers this question through the arrangement of its chapters. Different from the previous white papers on human rights, which arrange their contents by the classification of rights, this white paper takes the people-oriented scientific outlook on development as its guidance and adopts a content structure corresponding to the pattern of development. The arrangements of its content from chapter one to chapter five are the followings: Protection of Human Rights in Economic Construction; Protection of Human Rights in Political Construction; Protection of Human Rights in Cultural Services; Protection of Human Rights in Social Development and Protection of Human Rights in Ecological Progress. Through such arrangement, the white paper gives a typical answer to the questions of how to safeguard human rights in a developing country and the question of what should be the relationship between human rights and development, namely promoting human rights through development and pursuing development

in the process of promoting human rights. This answer is compatible with both the national condition in China and the practice of incorporating human rights perspective into the mainstream development process advocated by the international community.

For another example, the white paper *Progress in China's Human Rights in 2013*, released by the Information Office of the State Council on May 26, 2014, states in its Foreword that: "In that year, the CPC and the Chinese Government, based on China's prevailing conditions and reality, and aiming at promoting social fairness, justice and the people's well-being, comprehensively deepened the reform, advanced various undertakings in the economic, social and cultural fields, and safeguarded the people's rights to equal participation and development, so that the fruits of development would benefit the people in a better and more equal way. China's development provides all Chinese people with the opportunities to develop themselves, serve society, make successes in their life and realize their dreams." It takes the safeguarding of human rights as the core discourse and an important perspective in the development process and gives concrete interpretation of the development connotation and human rights pursuit of the Chinese Dream.

Development needs to be safeguarded by the rule of law while at the same time provides the basis and condition for the progress of the rule of law. Since its Eighteenth National Congress, the CPC has put the construction of the rule of law on a more prominent position in its agenda. The Fourth Plenary Session of the Eighteenth Central Committee was the first plenary session of the CPC Central Committee that took ruling the country by law as its theme, which was an inevitable result of the development of the situation in China. On the basis of adhering to the rule of law, the basic logic of the development in China is that: On the one hand, development is of overriding importance; and on the other hand, development must be people-oriented and take the people as its center.

3. Human Rights

All roads lead to Rome. Human rights are the common goal pursued by all countries in the world, but there are more than one road to the realization of human rights. The Chinese communists hold that there is an essential inherent relationship between socialism and human rights, which is determined by the purpose of the CPC and the nature of socialism: "Socialism is a system that safeguards human rights. Any social system that does not recognize human rights or effective safeguard human rights is not socialism."¹⁰

Ideological conflicts in the field of human rights have a long history. Regrettably, such conflicts often occur in the international arena nowadays. Deng Xiaoping pointed out that, while supporting human rights, we should also uphold national sovereignty: "Some Western countries, on the pretext that China has an unsatisfactory human rights record and an irrational and illegitimate socialist system, attempt to jeopardize our national sovereignty."¹¹ He held that national sovereignty and human

¹⁰ Li [8].

¹¹ Deng [9].

rights are unified. All state powers come from the people, and the state represents the people's rights.

Today, the human rights outlook with Chinese characteristics consists of the following principles: Firstly, human rights consist of not only individual rights, but also collective rights; secondly, human rights include not only civil and political rights, but also economic, social and cultural rights; thirdly, human rights are products of history, and their full realization is a gradual development process closely linked to the level of economic and cultural development in each country; fourthly, China, as the most populous developing country in the world, should give the first priority to the people's right to subsistence and right to development; fifthly, the essence of the advancement of human rights is to ensure the right of all members of society to equal participation and equal development; sixthly, China insists that international community should evaluate the human rights condition in a country in a comprehensive, objective and fair way. On the one hand, with the rapid economic and social development, China has been making continuous progress and unprecedented achievements in the development of the human rights cause; on the other hand, the improvement of human rights is a never ending process: There is no best, only the better. The realization of human rights is not something that can be accomplished overnight or once for all, but something that requires long-term persistence and unremitting efforts; and seventhly, China actively participates in international human rights cooperation and stresses constructive dialog, exchange and cooperation on the basis of equality and mutual respect, so as to promote the healthy development of international human rights cause.

The Chinese Dream, which includes development dream and human rights dream, is closely connected to the Chinese national condition, the Chinese road and the Chinese model, and as such, has distinctive Chinese characteristics. The Chinese Dream, as an important strategic ideology, has provided new theoretical and strategic guidance for the development of the human rights cause in China; the Chinese Dream and human rights in China have the same sources; and the essence of realization of the Chinese Dream is to better safeguard various fundamental rights of the people and promote the comprehensive development of the human rights cause in China.¹²

The National Human Rights Action Plan of China (2009–2010), promulgated and implemented in April 2009, states in its Introduction: "By putting people first, the Chinese Government makes sure the constitutional principle that 'the state respects and protects the human rights of its citizens' is implemented. While respecting the universal principles of human rights, the Chinese Government, in the light of the basic realities of China, gives priority to the protection of the people's rights to subsistence and development, and lawfully guarantees the rights of all members of society to equal participation and development on the basis of facilitating sound and rapid economic and social development." With respect to the basic principle of its formulation, the Action Plan provides that: "First, in pursuit of the basic principles prescribed in the Constitution of China, and the essentials of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights, the plan is aimed

¹² Sun [10].

at improving laws and regulations, upholding human rights and advancing China's human rights cause in accordance with the law.”

Both the National Human Rights Action Plan of China (2012–2015) and the National Human Rights Action Plan of China (2016–2020) provide in their introduction for three basic principles of their formulation and implementation: first, the principle of advancement in accordance with law, which means that the human rights cause in China takes the rule of law as its basis; second, the principle of comprehensive advancement, which means that the human rights cause in China takes the comprehensive and balanced scientific outlook on development as its guidance; the third is the principle of pursuing practicality, which means that the human rights cause in China is advanced gradually by basing on the national condition and the level of development of the country at the current stage. The third Action Plan, which is still in the process of implementation, adds two new basic principles: the principle of pushing forward the work in a balanced way, which means that the government must make sure that all people enjoy equal human rights; and the principle of pushing forward the work with joint efforts, which means that commerce is closely related to human rights; the social responsibilities of industrial and commercial enterprises have been increasingly advocated, and the role of mass organizations has been attached more and more importance too.

The Opinions on Reforming the Social Organization Administration System to Promote the Sound and Orderly Development of Social Organizations, jointly issued by the General Office of the CPC Central Committee and the General Office of the State Council in August 2016, provide that social organizations, with mass organizations, foundations and social service organs as their main body, are an important force in the socialist modernization construction in China. Since the reform and opening-up, social organizations in China have been developing continuously and playing a positive role in promoting development of the economy and social undertakings, innovating social governance and expanding foreign exchange. Meanwhile, social organizations are faced with such problems in their work as sluggish construction of the system of administrative regulations, absence of a sound management system, insufficient support and guidance and lack of self-construction, which have prevented them from giving full play to their role. The opinions point out that China must reform the social organization management system, correctly handle the relationship among the government, the market and society, reform the institutional mechanisms that impede the development of social organizations and stimulate the internal vitality and driving force for development of social organization, so as to enable social organizations to become an important force that provide service, reflect demands, regulate behaviors and promote harmony. The opinions put forward an overall objective: to establish and improve a social organization management system with Chinese characteristics, basically establish a social organization system characterized the separation of the government and social organizations, clearly defined rights and obligations and law-based self-governance by the year 2020.

The rule of law, development and human rights are the basic dimensions of the Chinese road of development. Together they form the basic pattern of the “three-in-one” Chinese development model. Today, China and Chinese people, taking several

thousand years of civilization as the foundation, the national condition of a large developing country with huge population as the basis, and ruling the country by law, realizing scientific development and safeguarding human rights as the main lines, are unswervingly pursuing the great Chinese dream of national rejuvenation, achieving continuous progress in economic and social development and making new contributions to the peace, development and human rights cause in the whole world.

40 Years of Reform and Opening-Up and the Road of Human Rights Development in China

Since the establishment of the PRC on October 1, 1949, the Chinese people have embarked on a new journey of independence, and after overcoming mountains of difficulties, facing up to numerous challenges and experiencing many twists and turns, finally found out a successful road of reform and opening-up. The year 2018 was the 40th anniversary of the reform and opening-up in China. The 40 years of reform and opening-up, which began in 1978, was a process in which China had been continuously moving toward prosperity, civilization and harmony, interacting more and more frequently with the outside world, having closer relationship with people around the world, making rapid progresses, breakthroughs and achievements and gaining useful experiences in the development of human rights cause.

1. New Starting Point of Human Rights Protection

The Third Plenary Session of the Eleventh CPC Central Committee, held on December 18–22, 1978, marked the beginning of the reform and opening-up in China. It was a great turning point with far-reaching significance in the history of the CPC and in the Chinese history since the establishment of the PRC. The Communiqué of the Plenary Session, apart from providing for the new development path of taking economic construction as the central task, especially pointed out that: “The rights of citizens provided for in the Constitution must be resolutely safeguarded and no one is allowed to infringe upon such rights.”

Professor Xu Xianming, a member of the Standing Committee of the NPC, pointed out that: “At the Third Plenary Session of its Eleventh Central Committee, the CPC solemnly put forward the great task of improving the socialist legal system and established the principle that “there shall be laws to abide by, everyone should abide by the law, the law must be enforced strictly, and those who violate the law must be dealt with”, thereby starting a new journey of construction of socialist legal system. It was a great meeting because it could be regarded as the new ‘starting point’ of human rights protection in China.”¹³ In retrospect, the major historical turning point in 1978 was hard-won.

The modern concept of “human rights” is the product of integration of different cultures in the world. It originated during the Enlightenment Movement in Western

¹³ Wu [11].

countries. Enlightenment thinkers, such as John Locke in Britain and Jean-Jacques Rousseau in France, had played a very important role in the formation of the concept of human rights in modern sense. The American War of Independence and the French Revolution at the end of the eighteenth century had produced a large number of human rights documents, especially the 1776 American Declaration of Independence, the 1789 French Declaration of the Rights of Man and of the Citizen and the 1789 US Constitutional Amendment, which had contributed to the formation of the concept of human rights. The human rights enlightenment and the early human rights movements had greatly liberated the thoughts and the productive force in the Western society and laid the foundation for the rise of Great Britain, France, the USA and other Western countries.

The Chinese history and culture contain precious resources of human rights culture. The traditional Chinese culture is full of people-oriented thought, the idea of the people's rights and such human rights ideas as the caring for children, women and the elderly. The idea of "the whole world as one community" and the Tianxia (World) System, which can be dated back to the Spring and Autumn Period and the Warring States Period (770–221 BC), contain rich content of egalitarianism, equality, fairness and justice after continuous evolution and development throughout the Chinese history,¹⁴ and have certain enlightening significance to the establishment of a fairer and more just international order.

In the beginning of the twentieth century, when the 2000-year old feudal system came to an end, the New Cultural Enlightenment Movement that contained human rights ideas emerged in China. For example, Mr. Chen Duxiu at that time held that science and human rights "are like the two wheels of a cart ... if the Chinese people want to get rid of barbarism and ignorance, they must do all they can to catch up with western people in the field of science and human rights" and that "since the rise of the ideas of human rights and equality, enslavement is no longer to be tolerated. It is said that modern European history has been a history of liberation: the pursuit of political liberation through the abolition of monarchical power, the religious liberation through the denial of the power of the church, the economic liberation through the advocacy of equal distribution of social wealth, and the liberation from patriarchy through women's political participation."¹⁵

From the above, we can see that, like the history of Western countries, there had also been a period of human rights enlightenment and development in modern Chinese history. Moreover, Chinese people have also made outstanding contributions to the drafting of international human rights instruments. After the Second World War, the concept of human rights has been elevated to the international level and gradually become a common pursuit of all countries in the world. Compared with the French Declaration of the Rights of Man and of the Citizen in the eighteenth century, the Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly on December 10, 1948, not only greatly expanded the human rights outlook, but enriched the content of human rights by absorbing and integrating

¹⁴ Liu [12].

¹⁵ See Chen Duxiu, "A Message to the Youth", *La Jeunesse*, Vol. 1. No. 1.

the values of major religious and cultural traditions in the world. For example, Article 1 of the UDHR provides that: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." The word "conscience" was added into this article at the proposal of Dr. Peng-chun Chang, the Chinese representative and one of the founders of Nankai University in China, on the basis of the value of Confucian culture. At the 61st United Nations DPI/NGO Conference, held in the UNESCO building at Paris in 2008, the portraits of the main drafters of the UDHR were placed on the two sides of the podium of the conference. Dr. Peng-chun Chang's portrait was in the second place on the left of the podium, along with those of Mrs. Eleanor Roosevelt (US), René Cassin (France), Mr. John P. Humphrey (Canada) and Mr. Charles Malik (Lebanon). This shows the Chinese scholar has been given high recognition for his contribution to the international human rights legislation.

After the establishment of the PRC, the Chinese people gained national independence and opened a new chapter in human rights protection. The first Constitution of the PRC was adopted with a unanimous vote at the First Session of the First NPC on September 20, 1954. It established the basic political system of the country, provided for the first time in Chinese history that: "All power in the People's Republic of China belongs to the people," and dedicated Chapter Three to "The Fundamental Rights and Obligations of Citizens." Under the historical condition at that time, the people still did not have a sufficient understanding of the relationship between the state and society and between the state and the individual. Nevertheless, the drafters of the Constitution already attached importance to the confirmation of the constitutional status of the individual. This basic framework has been retained in the subsequent constitutions in China.

The Chinese people had learnt a bitter lesson from the harms caused by the absence of the rule of law to the development of the country and to the protection of citizens' rights. Fortunately, it was against this background that the CPC made a correct policy decision in 1978 to embark on a new journey of carrying out reform and opening-up, developing the economy, adhering to the rule of law and safeguarding human rights.

2. Incorporating the Principle of Human Right Protection into the Constitution

The current Chinese Constitution, adopted in 1982, makes new responses to and contains new provisions on the rights and obligations of the citizen. It is a Constitution with Chinese characteristics and adapted to the need of socialist modernization. It changes the position the chapter on "The Fundamental Rights and Obligations of Citizens" from the last chapter to the second chapter, right behind the chapter on "General Principles," so as to highlight to role of the Constitution in protecting the fundamental rights of citizens, and increases the number of the articles in the chapter from a dozen or so to over 20. It is on the basis of the 1982 Constitution that China has been making continuous explorations on the road of human rights promotion and development compatible with its own national conditions since the reform and opening-up.

Human rights research and discussion have also gone through a process of gradually breaking through the forbidden zone. In the beginning of 1991, in order to

respond to the distortion of and attack on the human rights conditions in China by Western countries, the Bureau of Theory of the Publicity Department of the CPC Central Committee organized a special conference on human rights and put forward eight research topics and demanded the relevant institutions to immediately begin to collect materials and to compile a Research Data Series on Human Rights. The series was later published by Sichuan People's Publishing House in 1993. After this conference, human rights colloquiums were held by the Institute of Law, Chinese Academy of Social Sciences (CASS), Peking University, Renmin University of China and the Editorial Office of China Legal Science. Through these colloquiums, Chinese scholars had quickly extended and expanded the scope of human rights discussion and research and carried out comprehensive explorations on theoretical and practical issues of human rights. Legal scholars had carried out investigations on the human rights conditions in some countries in South Asia and North America and submitted over 60 reports on the results of their investigations to the Central Government.

On November 2, 1991, the Information Office of the State Council released the white paper *Human Rights in China*—the first official document on human rights released by the Chinese Government to the outside world. It calls human rights “a great term,” stressed that the full realization of human rights “remains a long-term historical task for the Chinese people and government,” and points out that “The right to subsistence is the foremost human right of the Chinese people.” The white paper was highly praised by Deng Xiaoping, who said that: “It is a great paper, an excellent paper.”¹⁶

In October 1995, Mr. Jiang Zemin, the then General Secretary of the CPC Central Committee, discussed the principle of the universality of human rights in an interview by foreign media. It was said to be the first open recognition of the universality of human rights by a Chinese leader.¹⁷

As early as on February 8, 1996, Professor Wang Jiafu, a member of the Academic Committee of CASS and a former director of the CASS Center for Human Rights Studies, gave a lecture entitled “Theoretical and Practical Issues Concerning Ruling the Country by Law and Building a Socialism State under the Rule of Law” to the Political Bureau of the CPC Central Committee. After the lecture, Mr. Jiang Zemin, the then General Secretary of the CPC Central Committee, delivered a speech in which he formally put forward the concept of “ruling the country by law.” Thereafter, the principle “respecting a safeguarding human rights” was incorporated into the Report to the Fifteenth National Congress of CPC in 1997; the strategy of “ruling the country by law” was incorporated into the Chinese Constitution in 1990; and the incorporation of the principle of protection of human rights into the Constitution was put on the agenda of the NPC.

On March 14, 2004, a new amendment to the Chinese Constitution was adopted at the Second Session of the Tenth NPC. The adoption was greeted with long and warm applause from the deputies to the NPC. It was exactly through this amendment that the principle “The state respects and protects human rights” was enshrined in the

¹⁶ Liu [13].

¹⁷ Wu Jing, *supra* note 13.

Chinese Constitution. Ms. Xin Chunying, a member of the Standing Committee of the NPC pointed out: “The incorporation of the principle of human rights protection into the Constitution was a major development of the socialist constitutionalism and an indication that the construction of the socialist democracy and legal system has reached a new level. It is bound to have a major profound impact on the development of the human rights cause and the realization of the comprehensive advancement of society in China. The respect for and protection of human rights by the state embodies the basic spirit of the Chinese Constitution.”¹⁸

Professor Xu Xianming held that: “This constitutional amendment, by clearing providing that ‘The state respects and protects human rights’, will have a positive influence on the operation of state power and national values. In the future, China will attach more importance to safeguarding human rights in the adaption and revision of laws and government officials and law enforcement personnel will strengthen the respect and protection of human rights in the governance and law enforcement process. All these will lead to better protection of the human rights of ordinary citizens.”¹⁹

Now the principle of human rights protection has already been incorporated into the Eleventh, Twelfth and Thirteenth Five-Year Plan for national economic and social development, the Constitution of the CPC and in the reports to the fifteenth to nineteenth national congresses of the CPC. It can be said that the amendment of the Constitution and the incorporation of the principle of human rights protection into the Constitution in 2004 laid a solid basic law fundament for the further development of the human rights cause in China.

The constitutional reform and development are both the legal results of the political reform and the legal basis for making further solid advancement in political reform. The constitutional amendment adopted at the First Session of the Thirteenth NPC in March 2018 was an example in this respect.

After the promulgation of the current Constitution in 1982, the NPC has, in light of the reform and opening-up and the practice and development of socialist modernization, made four revisions to the Constitution, with a total of 31 articles of amendments, in 1988, 1993, 1999 and 2004, respectively, so as to enable the Constitution to advance with the times. In the latest, namely the fifth revision of the Constitution, a total of 21 articles of amendments were adopted. Through these amendments, the Xi Jinping Thought on Socialism with Chinese Characteristics in a New Era was incorporated into the Constitution. Eleven of the amendments are related to the establishment of the National Supervisory Commission, which is a historical breakthrough and major development of the framework of the political system in China conducive to the construction of clean and honest government and society as well as to the safeguarding of human rights.

3. Incorporating the Principle of Human Right Protection into Laws

¹⁸ Xin [14].

¹⁹ Wang and Zhang [15].

On the basis of the Constitution, China has made rapid progresses in the construction of a legal system of protection of human rights. By the end of 2010, China had adopted 236 current effective laws, more than 690 administrative regulations, and over 8600 local regulations and completed a concentrated comprehensive review and cleanup of the existing laws, administration regulations and local regulations. On January 24, 2011, Mr. Wu Bangguo, the then Chairman of the NPC Standing Committee and a member of the Standing Committee of the Political Bureau of the CPC Central Committee, declared in Beijing that a multi-level socialist system of law with Chinese characteristics had already taken form. This system takes the Constitution as the key, other constitutional laws and the civil law, the commercial law and other branch laws as the backbone, and consists of different levels of legal norms, including laws, administrative regulations and local regulations. A basic experience gained by China in the development of socialist system of law with Chinese characteristics is that: advancing scientific, democratic and law-based legislation by adhering to the principles of putting the people first, legislation for the people and taking the mass line. The formulation of the Property Law of the People's Republic of China was a typical example in this respect.

The adoption of the Property Law at the Fifth Session of the Tenth NPC on March 16, 2007 was a starting point of the road toward the first civil code and a milestone of the construction of the rule of law in China. Although this law directly concerns the basic property right of citizens, it safeguards human rights.

The General Office of the Standing Committee of the NPC formally published the Draft Property Law on July 10, 2005, to solicit opinions from the public. By August 20, 2005, it had received a total of 11,543 pieces of opinions on the draft law submitted by people from all over the country through mass media and mails.

Among the ordinary citizens who had submitted opinions on the draft law by letter was Mr. Kang Tianjin, an 81-year-old retired government official in Tianjin Municipality. In his letter to the NPC, Mr. Kang not only put forward 25 pieces of opinions on such issues as registration of real estate and the right to the use of land for construction in the draft law, but also made a comparison table containing the texts of relevant provisions in draft law, the suggested changes and the reasons for the suggested changes. After carefully classifying, reviewing and giving full consideration to the opinions solicited, state legislative organs revised the draft law and after eight revisions, the draft law was passed with an overwhelming majority vote at the Fifth Session of the Tenth NPC on March 16, 2007.

Professor Wang Liming, a former member of the Law Committee of the NPC,²⁰ and the vice president of Renmin University of China, made the following comment on the Property Law in an interview by the media: "Very few other laws are able to arouse such high enthusiasm among the general public for participation in legislation. The Property Law, as a basic law, is a pillar of the socialist system of law with Chinese

²⁰ According to the constitutional amendments adopted at the First Session of the Thirteenth NPC on March 11, 2018, the Law Committee of the NPC was changed to Constitution and Law Committee, so as to highlight its function of supervision over the implementation of the Constitution. See Wang [16].

characteristics and plays a crucial role in the safeguarding of human rights.”²¹ The civil law, which is honored as “the encyclopedia of social life,” has close relationship with the safeguarding of human rights. The Chinese legislature plans to complete the formulation of the first civil code in the history of PRC in 2020. In deliberating the draft general provisions of the civil law, Professor Xu Xianming pointed out that: “the civil law should embody the spirit of modern times, the core of which is the respect for and protection of human rights.” Since courts may not invoke the Constitution in their judgments, he suggested that China should transform as many rights listed in the Constitution as possible into rights under the civil law.²² The general provisions of the civil law was adopted at the Fifth Session of the Twelfth NPC on March 15, 2017, indicating that China had taken a solid step toward the adoption of the civil code. Through the comprehensive confirmation and safeguarding of citizens’ rights under the civil law, the general provisions have, to a certain extent, played the role of effectively regulating public powers and laid an institutional foundation for the modernization of state governance in China.

Professor Liang Huixing, a member of the Academic Committee of CASS and a research fellow at CASS Institute of Law, held that the civil law, as a basic private law, takes the protection of human beings as its core and is rights-oriented and systematically and comprehensively provides for the various personal and property rights and interests enjoyed by natural persons, legal persons and unincorporated organizations in civil activities. With respect to their concrete content, the general principles provide for the protection of such new rights and interests as the interests of the fetus, private information, general personality rights and special personality rights, all of which embody the strengthening of the protection of human rights. The general provisions have revised and improved the civil rights system on the basis of the general principles of the civil law, strengthened idea of civil rights protection, and created the legislative mode of comprehensively and systematically providing for civil rights in the general provisions of the civil law, thus “ushering in a new era of construction the legal system of human rights protection in China.”²³

The formulation and adoption of the Chinese Criminal Procedure Law also demonstrated the legislative progresses made by China in human rights protection. The law attaches equal importance to punishing crimes and protecting human rights and therefore is referred to by some people as the “small constitution.” The first Criminal Procedure Law in the PRC was adopted in 1979 at the beginning of reform and opening-up. During the drafting of the law, Mr. Peng Zhen, who was in charge of the legislative work at that time, personally added the sentence “The objectives of the Criminal Procedure Law of the People’s Republic of China are to ensure ... that innocent people are not incriminated” to the basic principles of the law. The first major revision of the Criminal Procedure Law was carried out in 1996. The system of detainment for interrogation was abolished and the “adversarial” litigation mode was introduced, and, at the last legislative seminar on the revision of the law, Mr. Wang

²¹ Wang [17].

²² Xu [18].

²³ Liang [19].

Hanbin, the then Vice Chairman of the Standing Committee of the NPC, personally made the decision to introduce the principle of “innocent until proved guilty” into the law.

Many people refer to illegal evidence in judicial proceeding as “the fruit of poisonous tree.” And extorting a confession by torture—a worldwide problem in criminal justice—is a poisonous tree. On December 5, 2002, Mr. Zhao Zuohai, a villager in Shangqiu City of Henan Province, was sentenced to death with a two-year reprieve for “murdering” a fellow villager. On May 9, 2010, he was acquitted and released from prison after the sudden return of his “murder victim” to his home alive. By that time, Mr. Zhao had served many years of his prison term and his family had broken up. A society under the rule of law would never tolerate this kind of miscarriage of justice. China must continuously improve the legal mechanism for preventing and eradicating the practice of extorting a confession by torture. In March 2012, a new amendment to the Criminal Procedure Law was adopted at the Fifth Session of the Eleventh NPC. The amendment improves the system for the exclusion of illegal evidence and provides for the first time in Chinese history that it is prohibited to force anyone to commit self-incrimination. The amendment also further provides for the legal status of lawyers at the stage of investigation. Especially, the amendment incorporated the principle of respecting and safeguarding human rights into the Criminal Procedure Law. The development process of the Criminal Procedure Law is a process of evolution from one focusing only on the fight against crimes to one emphasizing the protection of human rights.

The rule of law not only is related to static legal texts, but more importantly, has a profound influence on the dynamic social life and social practice. After the formation of the socialist system of law with Chinese characteristics and the basic solution of the problem of “there being no law to go by,” the question of how to ensure that “all laws are obeyed and strictly enforced, and lawbreakers are prosecuted” has become more prominent and more urgently to be answered.

Party General Secretary Xi Jinping pointed out in a speech at the fourth group study session of the Political Bureau of the 18th CPC Central Committee on February 23, 2013, that: “Our efforts to complete the building of a moderately prosperous society in all respects presuppose a higher demand for the rule of law.” He stressed that: “We should take a well-designed approach to legislation, enforce the law strictly, administer justice impartially, and ensure that everyone abides by the law. We should exercise governance and administration in accordance with the law, develop a law-based country, government and society simultaneously, and thereby bring the rule of law to a new stage.”²⁴

At the Fourth Plenary Session of the 18th Central Committee of the CPC, held on October 23, 2014, which was the first plenary session of the CPC Central Committee that took “ruling the country by law” as its theme since the reform and opening-up, the Decision of the CPC Central Committee on Major Issues Pertaining to Comprehensively Promoting the Rule of Law (hereafter referred to as the Decision) was adopted. This meeting served as a link between the past and the future and therefore

²⁴ Xi [20].

was an important point in the process of development of the rule of law in China. The construction of the rule of law in socialist China is different from that in other countries in that it is an organic unity of the principles of the leadership of the CPC, the people being masters of the country and ruling the country by law. At the Fourth Plenary Session of the 18th Central Committee of the CPC, Party General Secretary Xi Jinping pointed out in the explanation of the drafting work of the decision that the relationship between the party and the rule of law is the core issue in the construction of the rule of law. He stressed that: “On this point, we must speak with justice on our side, and speak with flying banners and beating drums. We must make clear to the cadres and masses what the essential characteristics of socialist rule of law are, ensure our message is clear, and ensure a correct understanding of truth.”²⁵ The decision is a blueprint of the development of the rule of law in China as well as program of protection of human rights through the rule of law.

Against the background of advancing the strategy of ruling the country by law in a comprehensive way, China has achieved marked results in the deepening of the judicial reform. The transition from the review system for the docketing of cases to the registration system for the docketing of cases has greatly facilitated and guaranteed the exercise of the right of action by citizens; the circuit courts set up by the Supreme People’s Court in the cities of Shenzhen, Shenyang, Hangzhou and Chongqing are conducive to overcoming local protectionism and promoting judicial justice; China has successfully strengthened the construction of four major platforms of judicial openness, namely those for the openness of trial procedure, trial activities, trial documents and enforcement information, thus effectively promoting “sunshine justice,” increasing judicial transparency and safeguarding human rights through administration of justice.

On December 28, 2013, the Standing Committee of the NPC adopted a decision to abolish the system of reeducation through labor. After the abolition of the system, persons against which re-education through labor was legally enforced were released from re-education through labor without enforcement of the remaining term. This decision formally abolished the system of re-education through labor, which lacked sound legal basis and was unable to satisfy the human rights standard requiring that a citizen’s personal freedom can be deprived only by judicial organs in accordance with law and under the precondition of fully safeguarding the citizen’s right to fair trial. This was a landmark event in the Chinese legal history, an important embodiment of the importance attached by the Chinese Government to the law-based protection of human rights of citizens.

On August 29, 2015, President Xi Jinping signed the Order of Special Pardons of the President of the People’s Republic of China, which in accordance with the decision of the 16th Session of the Standing Committee of the Twelfth NPC, granted special pardons to four categories of prisoners, including those who fought in the Chinese People’s War of Resistance against Japanese Aggression or the Chinese People’s War of Liberation. By the end of 2015, a total of 31,527 prisoners had been granted special pardon in accordance with law. Special pardon, as a constitutional

²⁵ Xi [21].

system, was provided for in the 1954, 1978 and 1982 constitutions, but it had not been applied in the 40 years between 1975 and 2015. The special pardons, granted on the historical occasion of the 70th anniversary of the victory of the Chinese People's War of Resistance against Japanese Aggression as well as the World Anti-Fascist War, embodied the confidence of the CPC and the Chinese Government in the Chinese systems of the rule of law and human rights protection, and the equal consideration given by the Chinese Government to the safeguarding human rights, the rule of virtue and the rule of law. It can also be regarded as a new practice of China in the field of the rule of law and human rights protection.

4. Bringing Human Rights into Social Life

All states must implement the laws they have adopted, including traditional laws with strong operability, such as the criminal law and the civil law, as well as those with less operability and require more social security apart from judicial remedies, such as the Law on the Protection of Women's Rights and Interests and the Law on the Protection of Minors. The realization of the rule of law requires the implementation of all laws, which relies not only on judicial organs, but also, more importantly, on the participation of the whole society. Some laws may produce immediate results, but the true solution to social problems often requires scientific, effective and systematic social governance in addition to the implementation of law. In this respect, the government decision-making and policy measures are of great significance.

Although the policy documents on human rights protection adopted by the government are not legally binding like provisions of law, they are the policy measures that implement the constitutional principle of respecting and safeguarding human rights and relevant laws and administrative regulations, the national plans adopted according to the functions and tasks of the government and the concretization of the Constitution and laws in the government work. Since this kind of plans requires effective implementation by the central and local governments, they both are of instructive nature and have strong operability and executive force, and thereof is of special significance to the promoting and safeguarding of human rights. A typical example in this respect is the National Human Rights Action Plan adopted and issued by the Chinese Government.

On April 13, 2009, the Information Office of the State Council, with the authorization of the State Council, issued the National Human Rights Action Plan of China (2009–2010). This was the first national plan on human rights issued by the Chinese Government, a historical breakthrough and a milestone in the development of the human rights cause in China. The work of all government organs is related to human rights. However, being related to human rights is not enough, government organs should actively make plans and take actions from the perspective of human rights, so as to maximize the realization of human rights. The issuance of the first national human rights plan is a symbol of the mainstreaming of human rights perspective in government work in China.

The Vienna Declaration and Program of Action, adopted at the World Conference on Human Rights on 25 June 1993, recommends that each state considers the desirability of drawing up a national Action Plan identifying steps whereby that state

would improve the promotion and protection of human rights. Since then only 30 countries carried out the practice of adopting National Human Rights Action Plans. Among them, eight have adopted three or more national human rights plans. China is a permanent member of the UN Security Council as well as a member of the UN Human Rights Council. It has ratified over 20 international human rights treaties and adopted national human rights plans. This demonstrates the sincerity of the Chinese Government in implementing its international obligations under UN human rights treaties as well as its firm stand on and active attitude toward the promotion of the human rights cause.

In accordance with the Action Plan, a “joint meeting mechanism for the National Human Rights Action Plan” was created, consisting of the Information Office of the State Council and the Ministry of Foreign Affairs—they jointly take the leading role in this mechanism—and relevant state legislative and judiciary organs, departments under the State Council, mass organizations and social groups, and is responsible for coordinating the implementation, supervision and assessment of the Action Plan. On July 14, 2011, the Information Office of the State Council issued the Assessment Report on the National Human Rights Action Plan of China (2009–2010), which made a comprehensive assessment of the implementation of the first Human Rights Action Plan in China. The report pointed out that all measures stipulated in the Action Plan had been put into practice, with all the goals achieved and tasks fulfilled in due time. Of these, 35% of the binding targets and over 50% of the targets concerning the people’s livelihood had been met ahead of time or exceeded.

On June 11, 2012, the Information Office of the State Council issued China’s second national human rights plan, namely National Human Rights Action Plan of China (2012–2015), and on June 14, 2016, the Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015) was released. According to this report, with the joint efforts of all parties involved, all targets and tasks set by the Action Plan had been fulfilled as scheduled. Based on experience gained in the implementation of the first and second National Human Rights Action Plans, the Chinese Government has formulated the National Human Rights Action Plan of China (2016–2020) (hereinafter referred to as the Action Plan) in accordance with the constitutional principle that the state respects and protects human rights and the spirit of the Universal Declaration of Human Rights and other related international human rights conventions, and in combination with the implementation of the Outline of the Thirteenth Five-Year Plan for National Economic and Social Development of the People’s Republic of China. The Action Plan, which the Chinese Government is implementing now, defines the objectives and tasks of respecting, protecting and promoting human rights in the period from 2016 to 2020. Similar national policy documents include the China National Action Plan against Abducting and Trafficking in Women and Children (2008–2012), issued in 2007, and the Program for the Development of Chinese Women (2011–2020) and the Program for the Development of Chinese Children (2011–2020), issued in 2011. The comprehensive implementation of these documents means to fully implement the legal requirements of human rights protection in social life and to turn the laws and policies on the protection of human rights into the real life of the common people.

5. Internationalizing Human Rights

The development of the rule of law in a country includes the practice of international law. International human rights law is having an increasingly prominent influence on the international community. Since the reform and opening-up, China has actively carried out international exchange and cooperation in the field of human rights, forcefully refuted the un-objective and unfair accusations made by the USA and other Western countries against China and many other countries in the field of human rights, supported the UN in promoting the healthy development of the international human rights cause in the process of reform and development and the human rights dialog and cooperation under the UN framework or bilateral framework. With the deepening of the reform and opening-up, China has begun to actively lead the international human rights governance.

Recalling the past in the light of the present enables us to see that the world peace is hard-won and the right to peace and the right to development are the foundation of all other human rights. The objective and mode of international governance determine whether different countries and their people are able to participate in economic development, social progress and the realization of human rights in an equal, fair and just way. In the congratulatory letter to the Beijing Forum on Human Rights on September 16, 2015, Party General Secretary Xi Jinping pointed out that China would steadfastly adhere to the road of peaceful development and steadfastly advance the human rights cause both in China and the rest of the world. In the congratulatory letter to the International Symposium on the 30th Anniversary of the Adoption of the UN Declaration on the Right to Development on December 4, 2016, Party Secretary-General Xi Jinping stressed that the development is an eternal theme for the human race. The UN declaration affirms that the right to development is an inalienable human right. China will continue to make greater contribution to human development and progress and hopes the international society, with the UN 2030 Agenda for Sustainable Development as a new starting point, will strive to realize common development as it navigates a “fair, open, comprehensive and innovative” path. He pointed out that China has actively participated in global governance and made great efforts to promote inclusive development, striving to create conditions and opportunities for all countries, especially developing countries, so that they may share the fruits of development.²⁶

In practice, China has consistently implemented the 20 international human rights conventions it has ratified, including six UN core human rights conventions, supported the UN Human Rights Council in establishing relevant systems and carrying out its work in accordance with the objective, fair, non-politicized, non-selective and non-antagonistic work principle. As a member of UN Human Rights Council elected many times with huge popular vote, China has always conscientiously participated in the deliberation of state reports on the implementation of their obligations under various human rights conventions and actively participated in the universal periodical review of China’s human rights situation by the Human Rights Council.

²⁶ Xi [22].

International discussions on human rights are full of hot and focal spots, and there is an obvious uncertainty in the international governance in the field of human rights. Against this background, the newly elected UN Secretary-General António Guterres attended the opening ceremony of the 34th Human Rights Council and gave his first speech in the capacity as UN Secretary-General at the Human Rights Council on February 27, 2017. In the speech, he stressed that the concept of human rights is indivisible and interdependent, and the international community should pay equal attention to economic, social and cultural rights. He also pointed out that the international community must adopt effective measures to implement the 2030 UN Agenda for Sustainable Development, the core of which is the right to development, so as to provide a good platform for the promotion of human rights in all countries.²⁷

However, the human rights discourse on the right to development has never been in favor of Western countries, which recognize only their own human rights concepts and implementation approach, and reject the human rights values and concepts of Asian, African and Latin American countries, and refuse to respect the concept of the right to development put forward by developing countries. A typical example in this respect is that the USA refuses to recognize that the right to development is a human right and repeatedly voted against the resolution on “the right to development” at the Human Rights Council; in concrete fields, the USA also repeated voted against the resolution on “the Impact of Foreign Debts to Human Rights” during the deliberation at the Human Rights Council.

An issue faced by the international community at the present times is how to safeguard the fate and well-being of the majority of the countries and people in the world. China and the developing countries have responded to this issue. People in developing countries consist of over 80% of the world population, and the development of global human rights cause would be inconceivable without the common efforts made by the developing countries. On December 7–8, 2017, the first South-South Human Rights Forum, sponsored by the Information Office of the State Council of China and the Chinese Foreign Ministry, was held in Beijing. Chinese President Xi Jinping sent a congratulatory message to the forum. At the forum, over 200 delegates from nearly 60 countries, regions and international organizations attended the forum and carried out active discussions on the development of human rights in developing countries and in the world. The congratulatory message from President Xi Jinping to the forum represented the Chinese call for strengthening global human rights governance in a new era: follow a people-centered development philosophy, uphold both the universality and particularity of human rights, advance development through cooperation, promote human rights through development and build a community with a shared future for mankind. The message is of great enlightening and guiding significance to the development of the human rights cause in developing countries, even in the whole world.

Self-improvement and effective international cooperation are the two main ways of promoting the development of the human rights cause in various countries. Under the old political and economic orders, Western capitalist powers are the winners in the

²⁷ Guterres [23].

international political and economic arena. In mid-1980s, the economic aggregate of the Group of Seven accounted for 80% of the total world economy. In recent years, the international pattern and the balance of power have changed. As a result of the efforts made by developing countries, especially the rise of China and other emerging economies, developing countries now account for 60% of the world economy. The situation in which the Western countries dominate international affairs no longer exists. The world has become richer and more colorful and begins to show what it really is. China is the biggest developing country in the world. It is also the fastest developing country in the world with the greatest determination to promote the exchange and cooperation among developing countries. It has actively promoted the south-south cooperation in many different occasions, including the UN, the G20 summit meetings and the Belt and Road Forum for International Cooperation.

At its Nineteenth National Congress, the CPC put forward the objectives of “two constructions,” namely construction of new international relationship and the construction of a community with shared future for mankind. Proceeding from its national conditions, China has taken the right to subsistence and the right to development as the primary human rights, adhered to the law-based, comprehensive and gradual development of human rights, and made breakthroughs and historical achievements. This in itself is a contribution to the world human rights cause. Meanwhile, it also provides experiences and references to other countries, including developing countries, in raising their human rights protection level. China has actively implemented the UN 2030 Agenda for Sustainable Development and promoted in a comprehensive way international exchange and cooperation in the field of human rights on the basis of equality and mutual respect, thereby providing new directions, approaches and motive force for international human rights governance. From the above we can see that, under the guidance of correct human rights outlook with Chinese characteristics, China has been not only advancing the domestic human rights cause in a planned and methodical way, but also actively leading international human rights governance and contributing wisdom and strengthen to the healthy development of international human rights cause.

In conclusion, in the 40 years since the reform and opening-up and under the correct leadership of the CPC, China has not only realized rapid economic development, but also made remarkable achievements in the political, cultural, social and ecological fields, and achieving continuous progress and development of the human rights cause. On the basis of confidence in its chosen path, confidence in its political system and confidence in its culture, China has also developed confidence in its human rights system.

As Chinese President Xi Jinping pointed out in his congratulatory letter to the Beijing Human Rights Forum on September 16, 2015: “For a long time, China, by connecting the universality principle of human rights with China’s reality, constantly advances social and economic development, improves people’s welfare, promotes social fairness and justice, strengthens legal guarantee of human rights and strives for a comprehensive and coordinated development of economic, social and cultural rights as well as civil and political rights. This has significantly elevated the guarantee

level of people's existence and development rights and paved a development path for human rights suitable to China's national conditions."²⁸

How to correctly view the human rights development in a country? On February 14, 2012, Xi Jinping, the then Vice President of China, attended a welcome banquet hosted by US Vice President Joseph Biden and US State Secretary Hilary Clinton and openly exchanged opinions on human rights issues with the American hosts. In the speech given at the banquet, he said that: "China, as a country with a huge population, and big differences and uneven development in different regions, is still faced with many challenges in improving the people's livelihood and human rights conditions. The Chinese Government will continue to proceed from its own national condition, adhere to the people-orientation, always bear in mind the wishes and demands of the people, adopt effective policy measures to vigorously promote social fairness, justice and harmony, and continuously make new progresses in the development of the human rights cause." He especially stressed that: "In the 30 years since the reform and opening up, China has achieved remarkable achievements in the development of the human rights cause. However, as far as the issue of human rights is concerned, there is no best, only better."²⁹

Human rights protection and the construction of the rule of law are not something that can be accomplished overnight and once for all, but require long-standing and unremitting efforts. In this respect, the Chinese Government and the Chinese people have demonstrated great wisdom, strength and innovative spirit. China, which is current making solid progress in the construction of socialist democracy and the rule of law, will surely enter into a new stage of comprehensive and rapid development of the human rights cause.

References

1. Xi, J. (2014). Address to the first session of the 12th NPC. In J. Xi (Ed.), *Xi Jinping: The governance of China* (p. 40). Foreign Languages Press.
2. Xinhuanet. (2013, March 20). Authorized release of the two sessions: Prime Minister Li Keqiang and others meet with Chinese and foreign journalists reporting on the two session and answer the questions raised by them. http://news.xinhuanet.com/2013lh/2013-03/17/c_124469054_10.htm
3. Du, S., & Chen, L. (2015, September 26). Chinese President Xi Jinping and US President Obama hold joint press conference. *People's Daily*, p. 2.
4. Wang, W. (2013, December 24). Unswervingly following the path of socialism with Chinese characteristics. *People's Daily*, p. 7.
5. Xi, J. (2014, June 29). Carrying forward the spirit of the five principles of peaceful coexistence and building a beautiful world of win-win cooperation—Speech given at the conference commemorating the 60th anniversary of the declaration of the five principles of peaceful coexistence. *People's Daily*, p. 2.
6. Dong, Y., & Chang, J. (Eds.). (2009). *60 years of human rights construction in China* (p. 38). Jiangxi People's Publishing House.

²⁸ Xi [24].

²⁹ Jiao and Shen [25].

7. Li, X., & Guo, X. (Eds.). (2007). *A manual on human rights reporting* (pp. 2–3). Tsinghua University Press.
8. Li, T. (2001). *On democracy* (p. 157). People's Publishing House and China Social Sciences Press.
9. Deng, X. (1993). First priority should always be given to national sovereignty and security. In *Selected works of Deng Xiaoping* (Vol. 3, p. 348). People's Publishing House.
10. Sun, H. Promoting the development of the human rights cause and practicing the Chinese dream: The theoretical seminar 'Chinese dream and human rights in China' held in Jinan. Available at: http://www.humanrights-china.org/cn/dt/xwgc/t20140519_1175921.htm. Last visited May 25, 2017.
11. Wu, J. (2008, December 3). China will provide more extensive human rights protection in the next 30 years. *People's Daily*.
12. Liu, H. (2012). The whole world as one civilized and harmonious community. In S. Zhou (Ed.), *Selected essays on socialist core values* (pp. 323–329). China Social Sciences Press.
13. Liu, H. (2010). Sixty years of development of human rights and the rule of law in New China. In L. Li (Ed.), *Sixty years of construction of the rule of law in China* (p. 325). China Social Sciences Press.
14. Xin, C. (2004). The state respects and protects human rights: The historical significance of the incorporation of the principle of human rights protection into the constitution. *Qiushi*, 9.
15. Wang, F., & Zhang, G. (2004, March 9). The incorporation of the principle of human rights protection into the constitution: A consistent policy and essential requirement. *Legal Daily*.
16. Wang, Y. (2018, March 22). Constitutional supervision: A new situation is ushered in after 38 years—An interpretation of the constitution and law committee of the NPC. *Southern Weekend*.
17. Wang, L. The future of the socialist system of law with Chinese characteristics: The trend of legislative development. http://www.npc.gov.cn/npc/dbdhy/11_4/dbtzy/2011-03/11/content_1641619.htm. Last visited August 10, 2016.
18. Xu, X. (2016). The civil code should fully embody the principle of 'respecting and protecting human rights'. *The People's Congress of China*, p. 14.
19. Liang, H. (2017, April 13). The epoch significance of the adoption of the general provisions of the civil law. *People's Daily*.
20. Xi, J. (2014). Develop a law-based country, government and society. In J. Xi (Ed.), *The governance of China* (p. 144). Foreign Languages Press.
21. Xi, J. (2014, October 29). Explanation of 'the CPC central committee decision regarding some major questions in comprehensively promoting governance according to law'. *People's Daily*.
22. Xi, J. (2016, December 5). The congratulatory letter to international symposium on the 30th anniversary of the adoption of the UN declaration on the right to development. *People's Daily*.
23. Guterres, A. (2017, February 27). Remarks to the UN human rights council. Available at www.un.org/sg/en/content/sg/speeches/2017-02-27/secretary-generals-human-rights-council-remarks. Last visited on March 28, 2017.
24. Xi, J. (2015, September 17). The congratulatory letter to the 2015 Beijing human rights forum. *People's Daily*.
25. Jiao, Y., & Shen, J. Xi Jinping: As far as the human rights issue is concerned, there is no best, only better. *China Daily*. http://www.chinadaily.com.cn/hqgj/jryw/2012-02-16/content_5163467.html. Last visited July 1, 2016.

Economic, Social and Cultural Rights



China is the biggest development country in the world. Under the leadership of the CPC, the Chinese Government has always taken the welfare of the people as its objective of governance. A basic characteristic of the human rights development road in China is to realize human rights by developing the economy, achieve social progress and combine development, the rule of law and human rights.

China is a socialist country. At the international level, socialist countries have always attached importance to economic, social and cultural rights, while Western capitalist countries have focused on and emphasized civil and political rights for a long time. In recent years, developing countries have been making active efforts to put economic, social and cultural rights on the international agenda, and some Western countries, including western European and Nordic countries, are attaching more and more attention to economic, social and cultural rights. Only the USA is still persisting in its old ways, refusing to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR), sticking to the unitary, unbalanced human rights outlook, and one-sidedly emphasizing civil and political rights.

With rapid economic development, China has gained a more comprehensive understanding of development and formed a new development outlook in the new era of socialist development with Chinese characteristics and, on the basis of this new outlook, has enriched the content of and achieved marked results in the safeguarding of economic, social and cultural rights.

Economic, Social and Cultural Rights as the “Second Generation of Human Rights”

From the perspective of historical development, scholars have divided human rights into three generations¹: The human rights advocated during the European human rights movement in the eighteenth century, namely civil and political rights, are called the first-generation human rights; economic, social and cultural rights, put forward during the socialist movement against exploitation and oppression in late nineteenth century and early twentieth century, are called second-generation human rights; and the third-generation human rights refer to collective human rights, which have been closely related to the decolonization movement after the World War II.

The UN Universal Declaration of Human Rights (UDHR) provides for both civil and political rights and economic, social and cultural rights. In accordance with a resolution adopted by the UN Human Rights Commission in 1947, the Commission began to draft an international convention that includes these two categories of human rights while it was still formulating the UDHR. These two categories of human rights had often been discussed in opposition to each other, which, as history has shown, was to a large extent the manifestation of political differences resulting from the east–west and north–south confrontations.² Before the drafting of the Convention, Western countries which were in a state of cold war with communist countries, believed that the first category of human rights are more important than the second category of human rights, even refused to recognize the latter as genuine human rights. Even if they agreed that the latter are human rights, they refused to put the two categories of human rights into the same convention. At that time, economic, social and cultural rights were considered “socialist rights”, which were unacceptable to some governments.³ Against this background, the Sixth UN General Assembly reconsidered the issue in 1952 and, with a narrow majority vote of 29 in favor, 25 against and four abstentions, overturned the previous resolution, and decided to draft two covenants, meanwhile requiring that the two covenants include as many similar provisions as possible, so as to ensure the unity of the purposes of the two covenants, and that the two covenants be open for signature simultaneously at the UN General Assembly.

Finally, the ICESCR was adopted by the 21st UN General Assembly, opened for signature, ratification and accession on December 16, 1966, and came into force on January 3, 1976.

The proposition that takes civil and political rights as the center (namely liberty rights centralism) began to come under severe criticism from developing countries. Many non-European and -American countries had been under colonial rule in the early twentieth century—or exploited and interfered with by Western powers under

¹ Marks [1].

² Shestack [2].

³ Professor W. Fleming referred to the International Covenant on Economic, Social and Cultural Rights as “nothing else but the perfect embodiment of the unadulterated welfare state and unmitigated socialism”. *American Bar Association Journal*, October, 1951, p. 739 et seq.

unequal treaties even if they had maintained their independence. After gaining independence or being liberated from unequal treaties, their primary objective is to begin economic development and accumulation of wealth. At this stage, the only human rights they were concerned about, if any, were those that are related to poverty alleviation and economic development.⁴ For example, to many countries in Asia, Africa and Latin America, the primary problems that needed urgent solution were hunger and absolute poverty, which, however, were definitely not on the agenda of developed countries. These human rights demands, resulting from social conditions, are of course closely related to economic development. Meanwhile, developing countries, in order to change the long-existing situation in which only the developed countries had the say in international legal order and relieve themselves from the pressure resulting from this situation, refused to participate in the existing legal framework and to subject themselves to Western standards, and put forward a proposition favorable to themselves.

Obviously, this proposition is based on the historical practice of human rights and stresses the stages of human rights development and the consistency between individual and collective interests. It assumes that a starving person is probably not interested in such civil and political rights as the freedom of expression, and therefore, “the right to subsistence is the primary human rights”. This proposition has its profound historical background and practical significance. Objectively, developing countries have become the supporters of economic, social and cultural rights. However, with the development of the times, the support for the second generation human rights as the opposition to civil and political rights has naturally been adjusted gradually to become an objective and comprehensive attitude toward human rights. That is to say, the relationship between the two categories of human rights is that of unity and interdependence, rather than that of mutual exclusion.⁵

Not only developing countries have positive propositions on economic, social and cultural rights, but developed countries, based on the western and northern European theories of social state and welfare state, are also beginning to realize the importance of these rights. Japanese scholar *Onuma Yasuaki* holds that, from the perspective of legal history, the concept of human rights, which emerged in Europe, is a system aimed at “protecting individuals from the violation by the state power”. However, after gradual development and finalization in such developed countries as those in Europe and North America and Japan, this concept now covers not only liberty rights, but also social rights (short for “economic, social and cultural rights”). In the twentieth century, developed countries, such as northern and western European countries and Japan, had carried out land reform, social reform, implemented new tax policies, and begun to guarantee economic and social rights through the improvement of labor relations and development of social security system. This change in content of the

⁴ Yasuaki [3, p. 205].

⁵ UN General Assembly Resolution 32/130, adopted on December 16, 1977, typically reflects the opinions of developing countries by declaring that, on the one hand, the two categories of human rights are inseparable from each other, and, on the other hand, civil and political cannot be fully enjoyed without the enjoyment of economic, social and cultural rights.

globalized western idea or institution of human rights is inevitable.⁶ Accompanying the rise of economic, social and cultural rights are the understanding of the integrity and indivisibility of human rights, the relativization of the “dichotomy” of human rights, and the new stratification and classification of the human rights obligations of the state. This new trend of development has been clearly embodied in human rights theories and vigorously promoted by Western human rights scholars.

When the UN Committee on Economic, Social and Cultural Rights was established in 1987, a meeting attended by members of the Committee, human rights scholars and social activists was held in Limburg, Belgium at which the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as the Limburg Principles) was adopted. The Limburg Principles, which stress that: “State parties are obligated, regardless of the level of economic development, to ensure respect for minimum subsistence rights for all”, have an important influence on later theories in this field.⁷ In January 1997, on the occasion of the tenth anniversary of the adoption of the Limburg Principles, over 30 experts from various countries attended a meeting in Maastricht, the Netherlands at the invitation of the International Commission of Jurists, and adopted the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, which are the further elaboration and development of the understanding of economic, social and cultural rights.⁸

On the whole, differences, even prejudices, in the understanding of economic, social and cultural rights still exist. A prominent example in this respect is that the USA still has not ratified the ICESCR even today. Although the principle of the integrity and indivisibility of human rights has already been established, it has yet to enjoy popular support and be effectively implemented in practice. China has always attached importance to economic, social and cultural rights as human rights. In view of the importance of the ICESCR, the Chinese Government has ratified the Covenant in accordance with the procedure for the ratification of important international treaties. It signed the Covenant on October 27, 1997 and the State Council submitted the motion for the ratification of the Covenant to the Standing Committee of the NPC on May 6, 1998. With a serious and responsible attitude, the Standing Committee of the NPC held three deliberations of the motion in June 1998, October 2000, and February 2001. During the deliberations, it had also organized relevant government departments and academic institutions to carry out intensive studies on the Covenant. The ICESCR was formally ratified by the Standing Committee of the Ninth NPC at its 20th meeting on February 28, 2001. The Chinese Government

⁶ Yasuaki [3, pp. 197, 207, 208].

⁷ E/CN.4/1987/17, The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

⁸ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (Jan. 26, 1997), in *Economic, Social and Cultural Rights: A Compilation of Essential Documents, International Committee of Jurists*, 1997, pp. 79, 82–86. See also, Dankwa et al. [4].

deposited the instrument of ratification with the UN on March 27, 2001. In accordance with Article 27 of the ICESCR, the Covenant entered into force for China three months after the date of the deposit of China's instrument of ratification.

China had completed the ratification of the ICESCR in only a little more than three years, which was shorter than the time taken by most developed countries in ratifying the Covenant. For example, it took Belgium fifteen years, Italy eleven years, UK eight years, the Netherlands and Luxemburg nine years, Germany and Austria five years, and Norway and Sweden four years to ratify the Covenant. The USA, which signed the Covenant in 1977, still has not ratified it even today.

The Chinese Government has also actively recommended experts to run for and hold positions at the Committee on Economic, Social and Cultural Rights. For example, Mr. Zhan Daide, the former Chinese Ambassador to Vanuatu, and Ms. Cong Jun, Vice Secretary-General of China Center for International Economic Exchanges, are the former members of the Committee, and Mr. Chen Shiqui, the former Director-General of the Department of Treaty and Law of the Chinese Ministry of Foreign Affairs, is a current member of the Committee.

On June 2003, the Chinese Government submitted through UN Secretary-General its initial report on the implementation of the ICESCR to the UN Committee of Economic, Social and Cultural Rights, which considered the report in September 2006. In an introductory statement made during the consideration of China's report, Ambassador Sha Zukang of the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland pointed out that the Chinese Government attached high importance to the writing and deliberation of the report and established a working group on the drafting of the report composed of 15 organs such as the Foreign Ministry, the Ministry of Labor and Social Security, the Ministry of Education, the Ministry of Health and the Ministry of Construction. After collecting and synthesizing the information from relevant governmental bodies, NGOs, academia and the press, the Working Group formulated a draft report which was distributed to various groups of the society for comments and thereafter repeatedly revised and reviewed the draft. The whole drafting process took no less than one year. The report introduces in detail measures taken by the Chinese Government to promote various rights under the Covenant, including achievements as well as difficulties and problems. It also contains a large amount of data in an effort to comprehensively reflect China's situation. In addition, the Chinese Government also submitted supplementary materials amounting to 100,000 words in answering the questions raised by the Committee in the consideration of China's report.

China submitted the second report on the implementation of the IESCR in June 2010. The report gives a comprehensive introduction to the achievements made by China in recent years in promoting and protecting citizens' economic, social and cultural rights and answered the questions raised by relevant UN organs in the consideration of the China's initial report. Submitting reports on the implementation of human rights conventions and accepting the consideration by treaty bodies is one of the important measures taken by China in the field of human rights and embodies the consistent positive attitude of the Chinese Government toward the promotion and

protection of human rights and international human rights cooperation. In 2009, the delegation of the Chinese Government participated in the consideration of China's second report on the implementation of the Covenant.

Measures for Safeguarding Economic, Social and Cultural Rights

There is a “natural” rationality for China, a socialist developing country, to attach importance to economic, social and cultural rights. China's core development idea can be summarized by one term in the official discourse of the Chinese Government—“people's livelihood”. Being people's livelihood-centered is to take the people's right of subsistence and right to development as the primary consideration, and strive to improve the people's living standard and quality, and enhance the sense of happiness and sense of gain of every citizen. Therefore, the development in China is not merely the economic development and the growth of GNP, but more importantly, the guarantee and improvement of the livelihood of all members of society. In the opinion of the author of this book, China has gradually embarked on a road of scientific development in the 40 years since the reform and opening-up. China is unswervingly implementing the new concept of innovative, coordinated, green, open and shared development.

The development in China has two characteristics: One is taking economic construction as the center and realizing the rapid economic development and take off; the other is taking the people as the center, continuously enriching its connotation and denotation along with economic development, gradually and rapidly embarking on a path of comprehensive, balance and sustainable development. In this process, human rights have been gradually mainstreamed and become an inherent content of development, and economic, social and cultural rights, which embody the level of safeguarding of the people's livelihood, have naturally become a bright spot in the development of the human rights undertaking in China.

The National Human Rights Action Plan of China (2016–2020), which is currently in the process of implementation, puts the chapter on “Economic, Social and Cultural Rights” in its first part, right after the Introduction. This shows the importance attached by China to economic, social and cultural rights. And the issue of poverty reduction is at the beginning of the chapter on economic, social and cultural rights, clearly demonstrating China's confidence and determination in its poverty-reduction work. The Plan sets the overall goal of promotion of economic, social and cultural rights as: “to press forward with precision poverty-reduction and poverty-eradication campaigns, improve the public service system, steadily enhance the level of equal access to basic public services, and safeguard citizens' economic, social and cultural rights.”

1. Poverty-Reduction Campaign

In the 40 years of the reform and opening-up, the Chinese Government has made continuously efforts in the alleviation of poverty—setting up special poverty-relief institutions, determining targeted areas and population, allocating specialized funds, formulating poverty standards and special preferential policies adapted to China's national conditions, and establishing the policy of poverty alleviation through development. The government has carried out large-scale development-oriented poverty eradication programs across the country in a planned and organized way, and implemented a series of medium- and long-term projects which include the Seven-Year Program for Lifting 80 Million People Out of Poverty (1994–2000), the Outline for Development-Oriented Poverty Alleviation for China's Rural Areas (2001–2010) and the Outline for Development-Oriented Poverty Alleviation for China's Rural Areas (2011–2020). Poverty reduction has become an important component of China's national strategy.

Since the 18th National Congress of the CPC in 2012, in the great course of building a moderately prosperous society and realizing the Chinese Dream of great rejuvenation of the Chinese nation, the CPC Central Committee led by General Secretary Xi Jinping has remained committed to a development concept that puts people first, and implemented the basic strategy of targeted poverty alleviation and elimination. At the Fifth Plenary Session of its Eighteen Central Committee, CPC put forward the poverty eradication target according to which the whole of the impoverished rural population according to the current standards shall be lifted out of poverty and no county will be called a “poverty county” by the year 2020. The subsequent central work conference on development-oriented poverty reduction and the decision on winning the fight against poverty issued by the CPC Central Committee and the State Council made comprehensive plans on poverty elimination for the 13th Five-Year Plan period (2016–2020). China's 13th Five-Year Plan for Economic and Social Development has codified the central leadership's poverty reduction decision into the state will that is operable in practice. For the first time, poverty reduction has been made an important part of one of China's five-year plans, and helping the poor population shake off poverty has been listed an obligatory index in such a document. Also for the first time, the heads of Party committees and governments of relevant provinces and autonomous regions have signed with the Central Authorities letters of commitment on poverty elimination, and likewise similar documents have been signed by leaders at lower levels.

2. The Right to Work

Specifically, employment is the basis of the people's livelihood. The Chinese Government takes the safeguarding of the right to work as one of its core work. Currently, the emphasis of the work of the Chinese Government in this respect is to implement more proactive employment policies and the system of lifelong vocational skills training for workers, further improve the wage and benefits system and the long-term safety production mechanism, and strengthen the prevention and treatment of occupational diseases.

To ensure a fuller rate of employment and quality employment, the Chinese Government has adopted the following measures: introducing programs of employment promotion and entrepreneurship for college graduates, encouraging surplus rural labor to seek employment in other areas, helping migrant workers start businesses back in their home villages; registering people with difficulties in finding jobs, so as to keep track of their employment situation and give them help according to defined categories, and paying particular attention to families with no one holding a job; and giving support to counties and townships in poverty-stricken areas in building employment and social security services platforms. According to the government plan, a minimum of 50 million new jobs are to be created in urban areas between 2016 and 2020.

China attaches importance to the lifelong vocational skills training system for workers and has adopted concrete measures to offer free vocational training to young people from needy families, people with junior or senior middle-school education, migrant workers, people having lost their jobs, workers with reassigned jobs, ex-service people and people with disabilities. It is expected that China will provide vocational skill training to 40 million migrant workers and realize the goal of equipping every worker with relevant occupational skills by 2020.

With respect to the wage and benefits system, the government has improved the wage-setting mechanism, the normal wage increase mechanism and payment guarantee mechanism, and the minimum wage adjustment mechanism; continuously implemented the collective wage negotiation mechanism for enterprises; and improved a salary system for highly skilled professionals, increased the salaries of skilled workers, and implemented the paid vacation system.

With respect to the safeguarding of labor rights, the Chinese Government has attached importance to improving the labor security supervision and law enforcement system and labor dispute settlement mechanism. Concrete measures include: strictly prohibiting employment discrimination of any form, comprehensively addressing arrears of wage payment for migrant workers, regulating layoffs by businesses, guaranteeing the rights and interests of workers informally employed, strictly regularizing the application by enterprises of the special working-hour system and strengthening supervision over labor dispatch in accordance with the law.

With respect to strengthening safety in production, China plans to reduce the death toll caused by industrial accidents of various types by 10% cumulatively, and the death rate from industrial accidents per RMB 100 million of GDP by 30% by 2020.

With respect to strengthening the prevention and treatment of occupational diseases, the Chinese Government plans to ensure that 90% and above of relevant workers in industries with high risks of occupational diseases receive special health checkups, and 95% and above of persons in charge of businesses and occupational health managerial staff receive the required training.

3. Right to Basic Living Standards

The right to basic living standards is a fundamental human right provided for in ICESCR. The Chinese Government has made full efforts to reduce poverty, and

ensure basic housing, clean water, food security, and convenient transportation. In the Third National Human Rights Action Plan, the Chinese Government mentioned clearly that it will ensure the increase of rural and urban residents' income in step with economic growth. By 2020 China's GDP and the per capita income of urban and rural residents will both double that of 2010. Efforts will also be made to increase the income of low-income earners and enlarge the ranks of middle-income earners.

To this end, the Chinese Government has implemented the strategy of precision poverty reduction and poverty eradication in accordance with the Decision of the CPC Central Committee and the State Council on Eradicating Poverty in China. By 2020, some 30 million people shall be lifted out of poverty by way of developing specialty industries, 10 million by way of transfer employment, 10 million by relocation to other areas, and the remaining 20 million, who have partially or completely lost the ability to work, shall be covered by social security. In this way the whole of the impoverished rural population according to the current standards shall be lifted out of poverty and no county will be called a "poverty county" by then.

An important aspect of the right to basic living standards is the right to housing. The Chinese Government attaches high importance to ensuring housing security. It plans to rebuild a total of 20 million units of housing in rundown urban areas, strengthen the support to poor areas, and ensure holders of residence permits equal basic housing rights with locally registered residents, make efforts to press forward with renovation of dilapidated housing in rural areas, carry out anti-earthquake reinforcement projects for rural housing, and basically complete the renovation of registered dilapidated housing by the year 2020.

Although the right to water is not provided for in ICESCR, it can be reasonably deduced from the right to basic living standard. With respect to access to safe water, the Chinese Government plans to add a total of 27 billion m³ of water supply capacity nationwide on the current basis, ensure all urban water supply sources meet the required standards, implement projects to improve drinking water security in rural areas, so that 80% of the population will have access to tap water, and 85% to centralized water supply by the year 2020.

The right to food is also a fundamental human right. The Chinese Government has adopted the following concrete measures to ensure food safety: strictly enforcing the Food Safety Law, comprehensively implement the system of responsibility of supervisory organs for food safety in areas under their respective jurisdiction, strengthening food safety supervision over imported foodstuffs, making supervision more effective through the building of a professional team of food safety inspectors, and improving the system of food safety credit and mechanisms for the protection of consumers' rights and interests.

With respect to improving the transportation conditions for urban and rural residents, in recent years China has speeded up the implementation of major transportation construction projects and set the objectives of basically putting in place a network of national trunk expressways by the year 2020. Where conditions permit, county seats shall have access to highways of Grade II and above, and townships and administrative villages have tarmac or cement roads and complete access to bus services.

4. Right to Social Security

With respect to the safeguarding of the right to social security, the objectives set by the Chinese Government for the period between 2016 and 2020 are advancing the construction of a social relief system covering urban and rural areas and supporting the development of social welfare and charity undertakings. More specifically:

Implementing the plan for the full coverage of social insurance, and steadily raising the level of social security pooling, establishing a more convenient social insurance transfer and renewal mechanism and a social security card system, and ensuring that 90% of the population enjoys social security coverage by the year 2020.

Improving the basic old-age insurance system that combines social pooling and personal accounts for urban workers and endeavoring to realize nationwide pooling for basic old-age pensions for urban workers, and introducing tax-deferred retirement insurance, and enabling 95% of eligible urban and rural residents to be covered by the basic old-age insurance by the year 2020.

Improving the medical insurance system, stabilizing the coverage of medical insurance in urban and rural areas at above 95%, comprehensively implementing a critical illness insurance system for urban and rural residents, improving mechanisms for steady and sustainable financing of the medical insurance and for adjusting medical care reimbursement rates, speeding up the establishment of a nationwide network for basic medical insurance and trans-regional settlement of medical insurance accounts, so that in-patient and out-patient medical expenses can be settled in the place of treatment if the patients meet the requirements for referral, despite having local coverage, and integrating maternity insurance with basic medical insurance.

Further expanding the coverage of unemployment insurance, and ensuring that eligible unemployed persons receive unemployment insurance benefits in full and in a timely manner, and that they have access to relevant re-employment services.

Comprehensively implementing provincial-level unified pooling of funds for work-related injury insurance, guaranteeing that the insured receive compensation when applicable, formulating regulations on the use and management of funds for prevention of work-related injury, improving the system of rehabilitation services for work-related injuries and extending work-related injury insurance to cover all eligible workers as prescribed by the law by the year 2020.

Pressing forward in coordinated manner the building of an urban–rural social relief system, bringing all eligible families into the coverage of the subsistence allowance system, further improving the relief and support system for people living in dire poverty and raising the level of relief and support, comprehensively implementing the temporary assistance system to provide timely help to those in urgent needs, and strengthening the construction of service facilities for the protection of minors and organs for the relief and management of vagrants at the grassroots level.

Improving the natural disaster relief system, adjusting and improving the relief policies in the wake of natural disasters and launching the project of construction of a national natural disaster relief supplies reserve system and other major construction projects.

Improving the social welfare system with focus on supporting the elderly, persons with disabilities, children, and needy, strengthening the building of welfare facilities, implementing the Charity Law, and supporting the development charitable undertakings.

Implementing the State Council's program for the reform of the household registration system, and establishing a unified urban-rural household registration system featuring the removal of difference between agricultural and non-agricultural household registration, implementing the Interim Regulations on Residence Permits, extending the system of residence permit to cover all permanent urban residents that have not yet had their household registration, promoting equal development for citizens, and enabling them to share the benefits of development equally and have equal access to social security.

5. Right to Property

The human rights attribute of the right to property is complicated, and it is still controversial whether it belongs to the category of economic, social and cultural rights or to the category of civil and political rights. Nevertheless, the right to property, whatever its attribute, is an important legal right of the natural person in contemporary time. It has direct or indirect relations with human rights in many aspects. With respect to safeguarding the right to property, China endeavors to establish and improve a modern property right system featuring clear ownership, clearly defined rights and obligations, rigorous protection, and easy transfer, and to bring the protection of people's property rights under the rule of law.

In this respect, the ongoing compilation of the Civil Code in China is of special significance. Currently, China is forging ahead with the compilation of the Civil Law Code in an orderly manner and improving the system of property protection. Meanwhile, China is pressing forward with the amendment of the Land Administration Law and enactment of supporting administrative regulations. Active explorations have been conducted on such systems as expropriation of rural collectively owned land, marketization of collectively owned rural profit-oriented construction land, management of homestead land, and the adjustment and handling of real estate ownership, and related studies on legislation have been carried out at the appropriate time. China will complete the confirmation and registration of the ownership of rural land contracted for productive use, homesteads, farmhouse and collectively owned construction land, continue the reform of the land expropriation system, stabilize the land-contracting relationship in the rural areas, improve measures for separating the rights of land ownership, contracting and management, and advance the orderly transfer of land-management right pursuant to the law, improve methods for confirming membership of collective economic organizations and the forms of realization of collective economic assets ownership, and convert the productive assets of collective economic organizations into shares for distribution among their members.

Currently, China is implementing the unified system of registration for immovables, taking steps to quicken the construction of a natural resource assets ownership system, deciding the owners of such assets, and innovating the forms of realizing the ownership; protecting the rights and interests of the owners of natural resource

assets, and ensuring that proceeds from such assets are shared fairly; further deepening the reform of the mining right system; and establishing a system and platform for trading of ecological and environmental rights and interests.

China is also implementing a rigorous intellectual property right (IPR) protection system, improving the IPR ownership system to encourage innovation and building an IPR trading and services platform.

6. Right to Health

The right to health is a fundamental human right. China is establishing and improving a basic medical and health system covering the entire nation and will increase the average life expectancy by one year by the year 2020. The objectives and concrete measures in this field include:

Promoting equal access to basic public health services: improving basic public health service programs and key public health service programs, the quality, improving the quality and efficiency of and equal access to health services, adjusting the funds for basic public health service programs at the appropriate time while continuing to give preference to primary-level health services when it comes to the allocation of funding, encouraging private capital to go to health services and offering equal treatment to non-profit private hospitals and public hospitals.

Enhancing the capacity for grassroots-level medical and healthcare services: focusing on the central and western regions, helping each county to run well at least one to two public hospitals (including hospitals of Traditional Chinese Medicine) and enabling 95% of primary-level medical and health institutions to reach the required standards; developing grassroots-level medical care spheres that ensure all patients receive help within 30 min; offering standardized training to the contingent of resident doctors and ensuring two general practitioners for every 10,000 persons and 2.5 practitioners/assistants for every 1000 persons.

Strengthening the prevention and control of major illnesses: accelerating the building of national- and provincial-level demonstration areas for chronic disease prevention and control, and endeavoring to reduce the rate of premature deaths from major chronic diseases by 10% and the incidence of TB to 58/100,000; reducing the infection rates of HBV in all groups; controlling AIDS at a low-epidemic level, basically eliminating schistosomiasis, and eliminating malaria and leprosy; improving the diagnosis, reporting and follow-up service of serious mental disorders, and registering 85% of persons with serious mental disorders for health management; giving primary attention to the prevention and control of endemic diseases, improving the capabilities for public health emergency response and the prevention and treatment of acute infectious disease epidemics; and strengthening the health quarantine capacity of land border crossings and sea ports to prevent the spread of major infectious diseases from outside China; increasing the supply of medicines for the prevention and control of AIDS and some other diseases free of charge, and providing medical relief for all those suffering from severe or major illnesses.

Ensuring medication safety: improving the system of basic medicines, the mechanism for medicine supply and the system of drug inspection and testing, and strengthening the monitoring of adverse effects of drugs.

Implementing the National Fitness Program (2016–2020): making fitness facilities accessible to urban communities within a 15-min radius, and ensuring permanent residents in rural towns and townships access to basic public sports services and guaranteeing farmers in rural administrative villages access to sports and fitness facilities. By 2020, some 700 million people shall take part in physical exercises at least once a week, and 435 million people shall do it on a regular basis, with per capita sports or exercise area being 1.8 m² or more.

7. Right to Education

Education is a basic guarantee for the realization of economic development and social progress in all countries in the world, especially in developing countries. The right to education is also a fundamental human right and a key to the advocacy, enjoyment and realization of all other human rights. The Chinese Government is currently implementing the 13th Five-Year Plan for the Development of Education (2016–2020), aimed at comprehensively enhancing the quality of and the equality in education. According to the plan, the average years of schooling for the working-age population in China will reach 10.8 years by 2020. Concrete measures include:

Making three-year preschool education universal, expanding preschool educational resources bringing universal benefits and enabling 85% of eligible children to be enrolled in kindergartens; strengthening the support to the central and western regions and to weak links, and establishing a well-balanced network of pre-school education public service that covers both urban and rural areas; promoting balanced and high-quality development of compulsory education: accelerating urban–rural integration of compulsory education and the standardized construction of public schools of compulsory education; comprehensively improving the conditions of disadvantaged schools of compulsory education in poverty-ridden areas; paying greater attention to ensuring equal access to compulsory education at local schools for the children of migrant workers and improving the system of education service for children left behind by their migrant worker parents; making senior high school education universal; encouraging diversified development of general high schools, continuously increasing the support to the development of senior high school education in poverty-stricken areas of central and western China, exempting students from families with financial difficulties from tuition and other fees during senior high school, and enabling 90% of students graduating from junior high school to enter into senior high schools by the year 2020.

Boosting higher education: implementing the program for enhancing the innovation capacity of institutions of higher learning and the program for the rejuvenation of higher education of central and western regions, and expanding enrollments of key institutions of higher learning in central and western China and in rural areas; improving the vocational education system: amending the Vocational Education Law; promoting integrated development of industry and education, and improving the system of cooperation between schools and enterprises and the diversified channels conducive to the development of students receiving vocational education, supporting the development of vocational education in less-developed areas, implementing by step and category the program of exempting students receiving secondary vocational

education from tuition and other fees; implementing the system of national basic vocational training package; making great efforts to develop continuing education. A personal education account and number of credits system shall be established, and the channels for continuing education and lifelong education shall be expanded. Institutions of higher learning, enterprises and public institutions, and various agencies providing educational training are encouraged to engage in continuing education; strengthening the training of teachers in rural areas, providing living subsidies to all teachers working in rural areas hit hard by poverty, and implementing differentiated standards of subsidies on the basis of the location and degree of poverty where the teachers work; gradually implementing standards of personnel establishment for faculty and staff of elementary and high schools in both urban and rural areas, promoting the exchange of teachers working in urban and rural areas and making greater efforts in training of teachers working in rural areas of central and western China; and improving state financial aid policies, and ensuring full coverage of financial aid to students with economic difficulties.

It is worth mentioning that human rights education has also been attached more and more importance in China. The National Human Rights Action Plan of China (2016–2020) includes a special chapter on “Human Rights Education and Research”, which puts forward plans for intensifying the efforts to promote human rights education and training and enhance public awareness of the importance of human rights. According to the plans, China will set up a human rights research platform to provide intellectual support for the development of the human rights cause. It especially provides that China will implement the Opinions on Improving the System of Study and Use of the Law by State Functionaries and make human rights education a key part of the work of enhancing the performance of state functionaries in this regard. It also provides that the state should include human rights knowledge in the education of Party committees (leading Party groups) and make human rights part of the curricula of Party schools, cadre colleges and administration institutes at all levels, and a required course for government employees, including judges, prosecutors and police officers, at the beginning of their careers or during training.

It requires the government to include human rights knowledge in the content of national education, make sure that human rights knowledge is integrated into the teaching activities of elementary and middle schools in flexible and diverse ways, provide human rights training for preschool, elementary and secondary school teachers; continue to support education in human rights in institutions of higher learning, further strengthen the development of human rights-related disciplines and postgraduate enrollment and cultivation; improve the abilities of institutions of higher learning and research institutes to carry out studies on important theories and practical problems concerning human rights, and establish a national scientific research project on human rights theories.

The Plan especially points out that China will support and encourage the enhancement of human rights education and training in enterprises and public institutions; develop a human rights culture, and take respecting and guaranteeing human rights as an important factor in decisions concerning both domestic and foreign investment;

and support the opening of special channels or columns on human rights by news media to publicize human rights knowledge and raise awareness.

8. Cultural Rights

Currently, China is implementing the Outline of the National Plan for Cultural Reform and Development of the 13th Five-Year Plan Period (2016–2020), which is aimed at improving the public cultural services, the cultural industry and cultural market, and raising the level of safeguarding of citizens' basic cultural rights. The concrete measures include:

At the legislative level, quickening the pace of enactment of laws on public libraries, the promotion of the cultural industry, the provision of public cultural services, and promotion of the movie industry, and amending the Law on the Protection of Cultural Relics, the Copyright Law and supporting administrative regulations.

At the practice level, promoting the standardization of and equal access to basic public cultural services, improving the public cultural facilities network, and strengthening the building of primary-level cultural service capacity; increasing the support for cultural development in former revolutionary base areas, ethnic-minority areas, border areas and impoverished areas; accelerating public digital culture development, suiting cultural products and services to the public's cultural needs; encouraging all social sectors to take part in the provision of public cultural services; further advancing the free access to public cultural installations; promoting the development of emerging cultural industries and encouraging innovation in the forms of cultural operations and making great efforts to boost the development of creative culture; and improving the cultural market entry-and-exit mechanism, and promoting the nationwide flow of cultural resources.

China, as a country with an ancient civilization, attaches great importance to carrying forward the fine Chinese culture in the process of modernization. To this end, it has adopted the following measures: establishing a dissemination system of China's fine cultural traditions, strengthening the protection and development of key state cultural and natural heritage sites, major ruins, key cultural relics protection units, and historic and cultural cities, towns and villages, and increasing the policy support to non-state-owned museums; pressing forward with the building of facilities for protecting and utilizing state intangible cultural heritages, implementing a research and training program for the inheritors of intangible cultural heritages; further developing traditional craftsmanship; and launching the project to collate Chinese classics and records.

To advocate life-long learning and improving citizens' cultural quality and the level of social civilization, the Chinese Government is currently implementing a nationwide reading project. Against the background of informatization, China is also strengthening the development of the Internet and cyber culture and has set the following goals to be achieved by 2020 and adopted corresponding measures for achieving these goals: realizing the full coverage of fiber-optic networks in all urban areas and providing a connection capacity of 1000 Mbps, allowing home users of the Internet in medium-sized and large cities to choose from a variety of plans with speeds

above 100 Mbps; enabling 98% of rural administrative villages to be covered by fiber-optic networks, making an Internet connection capacity of 100 Mbps available for areas where conditions allow, allowing more than half of rural home users to choose from a variety of plans with speeds above 50 Mbps; and implementing an Internet content development project, extending support to the digitalization of traditional publishing resources, enhancing the knowledge-services capacity and encouraging the creation of outstanding original works on the Internet.

9. Environmental Rights

As a country with a huge population and rapidly developing economy, China is more concerned about the environmental impact and the improvement of the environment than ever before. In the National Human Rights Action Plan (2016–2020), currently under implementation, the Chinese Government sets the follow goals: “Implementing the strictest possible system of environmental protection, forming an environmental-governance system involving the government, enterprises and the general public, and striving to address such pressing environmental problems as air, water and soil pollution, so as to achieve an overall improvement of the environment.” And it has adopted the following concrete measures for the achievement of these goals:

Firstly, with respect to legislation and law enforcement, advancing in an orderly manner the legislation on water pollution prevention and control, soil pollution prevention and control, and nuclear safety, effectively implementing the Law on Environmental Protection and the Law on Atmospheric Pollution Prevention and Control, and improving environmental public interest litigation and other supporting mechanisms.

Secondly, sparing no effort to curb air pollution. By 2020, the ratio of days with good air quality in cities above the prefecture level shall exceed 80%, the density of fine particulate matter (PM_{2.5}) in such cities that have not yet met the required standards shall drop by 18%, and the total emissions of sulfur dioxide and nitric oxides shall drop by 15%.

Thirdly, strengthening water pollution prevention and control. Efforts shall be intensified for pollution prevention and control in water-head areas and river basins, and a list of priority pollutants shall be screened and established for the country’s seven major river basins. By 2020, bodies of water at or above the Grade-III level shall surpass 70%, with bodies of water at the Grade-V level reduced to 5% or less, and black and odorous bodies of water in built-up areas of cities above the prefecture level shall be limited to 10% or less. The chemical oxygen demand amount and total emission of ammonia nitrogen shall drop by 10%, and excessive exploitation of groundwater shall be brought under strict control.

Fourthly, formulating and implementing the Soil Pollution Prevention and Control Action Plan. By 2020, 200 pilot programs shall be completed for the application of soil pollution control and remedy technologies; six pilot areas of soil pollution prevention and control shall be built; and area of polluted farmland treated and restored shall reach 10 million mu (close to 700,000 ha), with the area of lightly and moderately polluted farmland treated for safe utilization being 40 million mu (close to 3 million ha).

Fifthly, improving hazardous waste pollution prevention and control. Special programs shall be carried out in hazardous waste pollution control, and efforts shall be intensified for the prevention and control of heavy metal pollution in key areas and key industries such as non-ferrous metals. Capacity building shall be strengthened in environment and health risk assessment of toxic and harmful chemicals. Further efforts shall be made to promote the security improvement of nuclear facilities and prevention and control of radioactive contamination, and strengthen the system of and capacity for security supervision over nuclear and radioactive materials.

Sixthly, improving the protection of marine resources and environment. Strict control shall be enforced on the scale of sea reclamation, and protection and restoration of coastal belts, seeing to it that at least 35% of the country's shorelines remain in their natural conditions. A system shall be implemented under which terrigenous pollutants shall be treated and meet required standards before they are discharged into the sea and the total amount of waste discharge shall be capped. An early warning mechanism shall be established in relation to marine resources and environment carrying capacity. Strict control shall be imposed on fishing intensity; protection of rare marine species shall be enhanced; and a marine supervision mechanism shall be implemented.

Seventhly, promoting the improvement and upgrading of the energy structure. By 2020, the energy consumption per unit of GDP shall drop by 15%, water usage per RMB 10,000 of GDP shall drop by 23%, non-fossil energy resources shall make up 15% of primary energy consumption, and carbon dioxide emission per unit of GDP shall decrease by 18%.

Eighthly, promoting ecological conservation. The pace of delimiting the "red lines" for ecological conservation shall be accelerated, and efforts shall be made to forge ahead with the establishment of a negative list of industries that are not allowed in key ecofunction zones. By 2020, the country's forest coverage shall be raised to 23% of its land; the wetland inventory shall be stabilized at 800 million mu (over 53 million ha); and nature reserves shall remain steady at 17% of the country's total land area, in addition to another 10 million ha of improved desert land and another 270,000 km² of land of which soil erosion control has been completed. In addition, the number of national "forest cities" shall increase to 200, and the ratio of green land shall reach 25% in over 80% of the administrative villages nationwide. A biosafety inspection mechanism shall be set up at land and sea ports to prevent the spread of plant and animal epidemics and diseases across borders, as well as invasion by alien species.

Ninthly, improving environmental monitoring and supervision mechanisms. A trans-regional governance model shall be enforced for joint environmental prevention and control that covers all river basins and integrates urban and rural efforts. A system for paid use and trading of emission rights shall be established. So shall a system of environmental credit records for enterprises and a blacklist system of illegal waste discharge. The environmental damage compensation system shall be improved.

Achievements and Challenges

In recent years, China has effectively responded to the severe impact from the international financial crisis and maintained a high GDP growth rate. In 2012, China's GDP reached 51.9 trillion yuan, ranking the second in the world. The incomes of rural and urban residents had also maintained a high growth rate, providing favorable conditions for the safeguarding of economic, social and cultural rights.

Emphasizing the people's livelihood is a characteristic of China's development road, as well as an important characteristic of the coordinated development of the human rights cause and social progress. In the process of promoting the people's livelihood, the economic, social and cultural rights have been further safeguarded in China.

The poverty-reduction campaign has greatly improved the human rights condition of poverty-stricken and low-income population and become a bright spot in the safeguarding of economic, social and cultural rights in China. Both the Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015) and the white paper China's Progress in Poverty Reduction and Human Rights, issued by the Information Office of the State Council in June and October 2016, respectively, show that China has made many initial achievements in the safeguarding of economic, social and cultural rights.

1. Achievements in Poverty Reduction

The poverty-reduction campaign is the most prominent sign of the progress of the human rights cause in China. The white paper China's Progress in Poverty Reduction and Human Rights shows that over the past 30 years or more since the launch of reform and opening-up, more than 700 million Chinese people have been raised from poverty. The number of rural poor had fallen to 55.75 million by 2015, with the incidence of poverty dropping to 5.7%, notable improvement has been made to infrastructure and basic public services, and poverty-reduction mechanisms have been innovated, thus contributing to the guarantee of the basic rights of the impoverished population and laying a solid foundation for achieving a moderately prosperous society in all respects. The UN Millennium Development Goals Report 2015 shows that the proportion of people living in extreme poverty in China fell by half from 61% in 1990 to below 30% in 2002, and down to 4.2% in 2014. The number of citizens China has lifted from poverty accounts for 70% of the world's total. With the most people lifted out of poverty, China has led other countries to realize the UN Millennium Development Goal and made an enormous contribution to poverty reduction worldwide.

At the Nineteenth National Congress of the CPC in October 2017, Party General Secretary Xi Jinping solemnly declared that, in the five years since the Eighteenth National Congress of the CPC, "decisive progress has been made in the fight against poverty": Over 60 million people have been lifted out of poverty and the poverty incidence has dropped from 10.2% to less than 4%.

China's poverty-reduction work lifts 37,000 people out of poverty every day, which is a remarkable achievement. The problem of absolute poverty, which has plagued China for thousands of years, will be solved historically by the year 2020.

China knows very well the great significance of poverty reduction to the safeguarding of human rights and, while endeavoring to eliminate poverty in its own country, has actively supported and helped other developing countries in poverty reduction. The above-mentioned white papers show that, while combating poverty at home, China also actively helps other developing countries to address their poverty problems. Over more than six decades since the founding of the People's Republic of China in 1949, China has provided nearly RMB 400 billion aids to 166 countries and international organizations, sent more than 600,000 aid workers, given medical assistance to 69 countries, unconditionally canceled interest-free loans to heavily indebted countries and least developed countries on seven occasions and aided more than 120 developing countries in realizing the Millennium Goals. Poverty reduction is still an important objective of the United Nations 2030 Agenda for Sustainable Development and China will continue to promote the effective implementation of the poverty-reduction tasks at both the domestic and international levels.

2. Right to Work

With respect to equal rights to employment, in 2012, 2013, 2014 and 2015, 12.66 million, 13.1 million, 13.22 million and 13.12 million new urban jobs were created respectively, surpassing the target of 9 million new jobs every year. The registered urban unemployment rate was kept within 4.1%, lower than the 5% target.

The right to work remuneration and the right to rest and leave have been further guaranteed. In 2012, 2013, 2014 and 2015, minimum wages were raised in 25, 27, 19 and 27 regions, respectively, by 20.1%, 17%, 14.1% and 14.9%. In 2012, the Standing Committee of the NPC amended the Labor Contract Law, again stressing equal pay for equal work. In 2015, more than 90% of employees working in various enterprises signed labor contracts. A survey on human resources and social security conducted in 60 cities in November 2015 showed that more than 50% of workers enjoyed annual leave with pay in 2015.

Work safety conditions have continued to improve. In accordance with the Opinions on Further Enhancing the Construction of the System of National Work Safety Emergency Platforms issued by the State Administration of Work Safety, the central government, 20 provinces (autonomous regions and municipalities directly under the central government), some cities, major counties and large enterprises in high-risk industries have set up separate work safety platforms. Communication and connectivity have been established among the platforms of the central government, 13 provincial regions and 7 national mine emergency rescue teams. Compared with 2011, the number of all types of industrial accidents and the number of deaths in such accidents decreased by 19% and 12.4%, respectively, and the number of major industrial accidents and the number of deaths in such accidents decreased by 47.2% and 31%, respectively. In 2013, the Standing Committee of the NPC deliberated and passed the Law on Special Equipment Safety. From 2011 to 2015, while the total number of special equipment increased by 70%, the number of deaths related to

special equipment was kept within 300 each year for five consecutive years and the death rate for every 10,000 pieces of special equipment decreased to 0.36 in 2015 from 0.67 in 2010, matching the level of special equipment safety in medium developed countries. Relevant government departments revised the Administrative Measures for Diagnosis and Identification of Occupational Diseases and the Classified List of Hazardous Factors of Occupational Diseases, formulated five regulations including the Provisions on the Supervision and Administration of Occupational Health at Work Sites, the Measures for the Administration of Occupational Health Examination and criteria for diagnosing new occupational diseases. They also issued over 70 occupational health technical standards, including the Technical Code for Dust Control in Stone Material Processing. Special campaigns were launched to control dust and hazardous materials in industries prone to occupational diseases, including gold mining, cement production, stone material processing and wood furniture making.

The skills of workers have been upgraded. Rural and urban workers received extensive vocational training. By the end of 2015, the total number of skilled workers had reached 167 million, exceeding the planned target of 125 million ahead of schedule, 45.01 million of them were highly skilled workers, accounting for 27.28% of the total.

3. Right to Basic Living Standards

From 2012 to 2015, the increase of residents' per capita disposable income surpassed the growth rate of GDP of the same period. The annual growth rate of the per capita disposal income of urban residents and per capita net income of rural residents were 7.5% and 9.2%, respectively, exceeding the planned target growth of 7%.

As mentioned above, China has achieved marked results in development-oriented poverty alleviation. The number of people living in poverty has been greatly reduced. In 2015, the state raised the national poverty alleviation standard from the 2010 level of RMB 2300 yuan to RMB 2855 yuan following a dynamic adjustment mechanism. The standards set by some provincial regions were higher than the national standard.

Housing conditions have been improved. In 2012, the Ministry of Housing and Urban-Rural Development issued the Measures for the Administration of Public Rental Housing. In 2014, the public rental housing system and the low-cost rental housing system merged into one. From 2012 to 2015, the state allocated RMB 770 billion yuan to support affordable housing projects, with 29.7 million housing units starting construction and with 24.28 million units basically completed. The central government provided a subsidy of RMB 127.1 billion yuan for redevelopment of dilapidated buildings in rural areas nationwide, with 15.24 million housing units redeveloped, exceeding the planned target by more than 200%.

4. Right to Social Security

The social security system has been further improved. The Ministry of Human Resources and Social Security has issued a series of regulations, including the Provisions on the Administration of Declaration and Payment of Social Insurance Premiums and Administrative Measures for Assessing the Work Capacity of Employees Sustaining Work-Related Injuries. In 2014, the old-age insurance system

for urban residents and the new rural old-age insurance system were unified and implemented, creating a unified national basic old-age insurance system for both urban and rural residents. By the end of 2015, the number of people underwriting the old-age insurance had reached 858 million, including 505 million for the basic old-age insurance and 353 million for the urban employees' basic pension insurance, exceeding the planned target. 31 provinces (autonomous regions and municipalities directly under the central government) established unified planning for employees' basic pension insurance system. Enterprise retirees' basic pensions increased by about 10% annually for 5 consecutive years and the per capita monthly basic pension increased to more than RMB 2240 yuan in 2015 from RMB 1362 yuan in 2010.

The basic medical insurance coverage has been extended to all citizens, with the rate of participation surpassing 95%. By the end of 2014, the number of people subscribing to new rural cooperative medical insurance policies reached 736 million, with the rate of participation staying at 99%, exceeding the planned target ahead of schedule. By the end of 2014, the number of people subscribing to medical insurance for urban employees, medical insurance for urban residents and new rural cooperative medical insurance policies had exceeded 1.33 billion, an increase of over 60 million compared with that of 2010, fulfilling the planned target ahead of schedule. Per capita funding for medical insurance increased to 515 yuan in 2015 from RMB 164 yuan in 2010, with the government grant increasing to 380 yuan for each person in 2015 from RMB 120 yuan in 2010, exceeding the planned target. 80%, 70% and 75% of patients' medical treatment costs covered by urban employees' medical insurance, urban residents' medical insurance and new rural cooperative medical insurance, respectively, will be reimbursed. The new rural cooperative medical insurance system has generally established unified planning for outpatients to cover over 50% of their expenses.

Coverages of unemployment insurance, work-related injury insurance and maternity insurance continued to expand. By the end of 2015, the number of subscribers to unemployment insurance had reached 173 million, exceeding the planned target ahead of schedule. Seven provinces realized unified planning for unemployment insurance at the provincial level while all or some of the cities in 21 provinces and the Xinjiang Production and Construction Corps achieved unified planning at the city level. The number of subscribers to work-related injury insurance had reached 214 million. Unified planning for work-related injury insurance at the city level was basically in place, while 10 provinces (autonomous regions, municipalities directly under the central government) issued measures for unified planning at the provincial level. By the end of 2015, the number of people subscribing to maternity insurance had reached 178 million, exceeding the planned target. The level of social assistance has steadily improved. By the end of 2015, per capita monthly subsidies for subsistence in urban and rural areas had reached RMB 451 yuan and RMB 264.8 yuan respectively, an average annual increase of 10%. The per capita annual subsistence allowance for rural residents enjoying the "Five Guarantees" (food, clothing, medical care, housing and burial expenses) under collective care reached RMB 6026 yuan while the figure for those under individual care stood at RMB 4490 yuan, an increase of 48.4% and 49.3%, respectively, compared with 2012. 84.06 million

people received medical assistance nationwide, with a total expenditure of RMB 27.4 billion yuan. The one-stop settlement model was in place for medical assistance expenses in 92% of all areas around the country.

5. Right to Health

The conditions of health care and medical security have further improved. By the end of 2015, China had trained 173,000 general practitioners through job-transfer training, on-the-job training and standardized training, more than achieving its planned goal. The average life expectancy reached 76.34 years—higher than the planned standard. Public health services are guaranteed in a more comprehensive way. A law on mental health has been adopted and enforced. Efforts have been made to implement the Development Guidelines for the National Mental Health Work System (2008–2015) and strengthen the construction of a mental health service system. A nationwide program has been implemented to screen, diagnose, register and visit those who suffer from severe mental problems. By the end of 2015, 4.922 million mentally ill people had been registered around the country, accounting for 85.5% of all such patients. The per capita spending for public health services was raised to RMB 40 yuan by 2015 from RMB 25 yuan in 2011. Urban and rural residents were entitled to such free services as establishing health records, and receiving health education and vaccination. China has set up the world's biggest direct Internet reporting system for infectious diseases and public health emergencies. A total of 265 demonstration areas have been established for the comprehensive prevention and treatment of chronic diseases, managing over 86 million people suffering from high blood pressure and over 24 million diabetics. A border infectious disease prevention and control system was established that integrates risk assessment, on-site quarantines, laboratory testing, information disclosure and joint prevention and control. By June 2014, a total of 259 ports of entry in operation had been evaluated and accepted, greatly raising the abilities for disease prevention and control and the handling of emergencies at ports of entry.

The prevention of endemic diseases has been enhanced. The goal of eliminating iodine deficiency diseases has been realized. In areas with a high incidence of endemic fluorosis caused by coal burning, preventive measures have been adopted with 99.4% of the coal-burning furnaces and stoves modified. China has basically completed projects to provide safe drinking water and improve water quality in areas afflicted by endemic fluorosis and arseniasis which are caused mainly by unsafe drinking water. An investigation into the regional distribution of endemic arseniasis has been completed, and measures aimed at modifying furnaces and stoves or improving water quality by reducing arsenic have been basically implemented. Comprehensive prevention and control measures have been taken including the relocation of residents from areas afflicted by Kaschin–Beck and Keshan diseases and the consumption of foodstuffs from non-endemic areas. By the end of 2014, over 90% of the villages afflicted by Kaschin–Beck disease had brought the disease under control, and 96.4% of the counties where Keshan disease remained an endemic had also brought it under control, achieving the planned goals in advance.

The safety of drinking water has been further ensured. By the end of 2015, China had expanded the coverage of the monitoring network for the safety of drinking water to all urban districts and over 60% of townships. Between 2011 and 2015, as many as 298 million rural residents and 41.33 million rural teachers and students had access to safe drinking water, and meanwhile, efforts were made to make safe drinking water accessible to 5.66 million rural people in areas with particularly harsh living conditions, including ethnic Tibetan areas, in the provinces of Qinghai, Sichuan, Gansu and Yunnan. The proportion of the rural population with access to centralized water supply was raised from 58% in 2010 to 82% in 2015, with tap water available to 76% of rural areas. All the progress made exceeded the planned goals.

Food and drug safety measures have been enhanced. The China Food and Drug Administration was established in 2013. In 2015, the NPC Standing Committee amended the Food Safety Law, and the departments concerned laid down a series of departmental regulations including the Provisions for the Administration of Food Business Licensing, the Measures for the Administration of Quality and Safety Monitoring of the Sale of Edible Agricultural Products and the Measures for the Administration of Food Recalls. The Supreme People's Court and the Supreme People's Procuratorate jointly promulgated the Explanations on Several Issues concerning the Application of Law in the Handling of Criminal Cases of Jeopardizing Food Safety and the Supreme People's Court issued the Provisions on Several Issues concerning the Application of Law in the Trial of Cases Involving Food and Drug Disputes. Nearly 5000 standards on various kinds of foodstuffs were reviewed, and 683 national standards on food safety were promulgated.

The NPC Standing Committee authorized the State Council to launch pilot schemes in certain regions aiming to establish a system of permit-holders for the sale of pharmaceuticals. The State Council also revised the Regulations on the Supervision over and Administration of Medical Devices. The China Food and Drug Administration has reviewed and issued a series of regulations including the Measures for the Supervision over and Management of the Production of Medical Devices, the Measures for the Supervision over and Management of the Business Operation of Medical Devices, the Regulations on the Quality of Operation of Pharmaceutical Products and the Measures for the Flight Check of Pharmaceutical Products and Medical Devices. An action plan was carried out to raise the national standards for drugs and medical devices, which led to the adoption of 4368 standards on pharmaceuticals and 562 standards on medical devices. From 2011 to 2015, more than 720,000 cases in violation of drug administration provisions were handled. About 36,000 criminal cases involving pharmaceuticals were resolved.

Public sports facilities for national fitness have been improved. The National Fitness Program (2011–2015) has been implemented in an all-round way. The number of sports venues of various kinds exceeded 1.69 million in the whole country, with a per capita sports area reaching 1.57 m², which is bigger than the target size. By the end of 2014, national fitness centers had been built in over 50% of the country's cities and counties (districts); practical fitness equipment had been installed in over 50% of neighborhoods (townships), urban communities and rural administrative villages. Both goals were achieved ahead of schedule.

6. Right to Education

Education is the foundation of development, whereas development creates conditions for education—this is a virtuous development cycle mechanism in China. From the human rights perspective, the safeguarding of the right to education, which is a fundamental human right, is of great significance to the advocacy and promotion of other human rights.

In recent years, China has steadily implemented the Outline of the State Medium- and Long-term Program on Education Reform and Development (2010–2020). In 2015, the NPC Standing Committee amended and promulgated the Education Law and the Higher Education Law. During that year, the net enrollment rate in primary schools was 99.88%, the gross enrollment rate in junior high schools reached 104%, and 93% of the students enrolled eventually completed their nine-year compulsory education.

Preschool education has been further developed. A 3-year action plan was implemented for the first and second stage pre-school education. Between 2012 and 2015, the central government appropriated RMB 62.1 billion yuan for pre-school education development mainly in rural areas of central and western China to accelerate the construction of preschool education networks in counties, townships and villages, and award and subsidize local governments in helping preschool children of poverty-stricken families, orphans and disabled enroll in kindergartens. In 2015, there were 223,700 kindergartens throughout the country serving 42.6483 million children. As a result, 75% of the children who would be starting school in three years were enrolled in kindergartens. The planned goal of having 65% of such children enrolled in kindergartens was achieved ahead of schedule.

An equal right to education for relocated children of migrant workers has been safeguarded. Between 2012 and 2015, the central government appropriated RMB 34.6 billion yuan cumulatively to enable nearly 90% of relocated children of migrant workers in cities to obtain government financial support. For children of those migrant workers who meet the conditions of the local governments receiving them, tuition fees for public schools in cities they migrate to and additional charges for transient schooling were abolished. In 2015, there were 13.671 million children eligible for compulsory education who had relocated with their migrant worker parents to cities. 80% of them studied at public schools. Various local governments also actively arranged for these children to study at inclusive non-government funded schools through service purchase and other means. By the end of 2015, 29 provinces (autonomous regions and municipalities directly under the central government) had begun to make their college entrance exams open to the children of migrant workers from other regions. Altogether, nearly 80,000 children of migrant workers took the college entrance exams in cities they had migrated to.

The conditions for running schools in poverty-stricken regions have improved. Between 2012 and 2015, the central government appropriated RMB 102 billion yuan cumulatively to support schools deficient in compulsory education. In November 2014, the government departments concerned jointly issued the Notice on Unifying the Establishment of the Faculty and Staff of Elementary and Secondary Schools

in Urban and Rural Areas, which made the standards of staffing for primary and secondary schools in rural counties and townships accord with those of their counterparts in cities, with a preferential treatment given to remote and poor regions. Between 2012 and 2015, the central government invested RMB 14.04 billion yuan in constructing 244,000 dormitory rooms for school teachers in remote rural areas with harsh living conditions, which could accommodate 300,000 teachers. Between 2013 and 2015, the central government (as well as Xinjiang Production and Construction Corps) appropriated RMB 4.392 billion yuan cumulatively for living subsidies for rural teachers in contiguous areas of extreme poverty, benefiting more than one million teachers.

The development of education in central and western regions has accelerated. The central government allocated RMB 10 billion yuan to support the enhancement of basic capabilities for about 100 local colleges in 24 provinces and autonomous regions of central and western China (including the Xinjiang Production and Construction Corps). Another RMB 5.6 billion yuan was set aside to support the establishment of one local institution of higher learning in each of the 13 provinces and autonomous regions and the Xinjiang Production and Construction Corps where there was not a single college affiliated to the Ministry of Education. Efforts were made to implement a collaborative plan to pair-up support for college enrollment in central and western regions. In this way, regions with rich education resources shifted part of their enrollment quota to central and western regions where the enrollment rate was low, and also to densely populated provinces. Between 2012 and 2015, a total of 755,000 students were enrolled into colleges through quota reallocation under the collaborative plan. The provincial gap in college enrollment has narrowed year on year.

The education conditions in senior high schools and vocational schools have improved steadily. Between 2012 and 2015, the central government appropriated RMB 12 billion yuan as subsidies for standard senior high schools in central and western China to support 1542 schools in contiguous areas of extreme poverty to improve the conditions for running schools, benefiting more than 6 million students at school. The central and local governments have jointly allocated funds to establish state grants for standard senior high schools, which averaged RMB 1500 yuan for each recipient annually and increased to RMB 2000 yuan at the start of the spring term in 2015. Between 2012 and 2013, the central government appropriated RMB 1.4 billion yuan in special funds annually to support the building of 1500 training bases for vocational education. During the 2012–2015 period, the National Development and Reform Commission arranged more than RMB 17 billion yuan in special funds to support the enhancement of basic capabilities in 1814 secondary vocational schools. The state also invested RMB 2.3 billion yuan in carrying out a plan aimed at raising the quality of teachers in vocational colleges and schools. By the end of 2015, the state had arranged for more than 340,000 teachers in vocational colleges and schools to attend systematic training; succeeded in having 580 large- and medium-sized enterprises participate in the training of teachers; and completed the construction of 300 sites providing specially designed courses to train vocational teachers. Between 2012 and 2015, the central government appropriated RMB

41.7 billion yuan as subsidies for the implementation of a tuition fee waiver program in secondary vocational schools, under which the tuition fees for all rural students, urban students who major in agriculture and those from poverty-stricken families at full-time secondary vocational schools were abolished. State grant scholarships were also given to first and second-year students of full-time colleges majoring in agriculture and those not majoring in agriculture, but who come from poverty-stricken families. The annual subsidy for each recipient was RMB 1500 yuan in 2013, which was raised to RMB 2000 yuan in 2015, covering nearly 40% of the students.

The financial support policies in general institutions of higher learning for students from poor families have been strengthened. Since July 2014, student loans offered by the state have been adjusted to a maximum of RMB 8000 yuan annually for each full-time undergraduate or college student and up to RMB 12,000 yuan annually for each full-time graduate student. Since July 2015, all interest on loans for students has been paid through financial subsidies with a maximum term extended to 20 years. Since the autumn term of 2014, a new state grant policy for full-time graduate students has been implemented, with no less than RMB 10,000 yuan for each doctor degree candidate annually and no less than RMB 6000 yuan for each master degree candidate.

In the field of human rights education, China has redoubled its efforts in promoting human rights concepts, publicizing human rights knowledge, carrying out human rights education and going all out to raise the awareness of respecting and safeguarding human rights throughout Chinese society. From 2012 to 2015, the State Council Information Office and other eight human rights education and training bases jointly held a total of 144 training sessions on human rights for Party cadres and government employees at various levels, judiciary and media personnel. Administrative institutes at various levels conducted courses in human rights, providing human rights knowledge education to cadres at various levels.

Starting from 2012, the state made sure that knowledge about personal rights, economic rights and the right to receive education was included in courses and textbooks in all primary and secondary schools in light of the characteristics of students' ages. It also made sure that students were aware of citizens' legitimate rights and duties, in an effort to enhance the awareness of rights among students. In accordance with the requirements in the National Human Rights Action Plan, institutions of higher learning strengthened the development of human rights-related majors, offered related courses for four-year college students majoring in law and other relevant disciplines, compiled human rights teaching materials and accelerated the education for special talents on human rights. They independently offer the general course "Introduction to Human Rights" and some selective courses including "Human Rights Law", "International Human Rights Law" and "Special Studies on Human Rights Law". Institutions of higher learning enrolled masters and Ph.D. candidates in disciplines including human rights law, politics and philosophy of human rights, and set up post-doctoral research centers in human rights. The China University of Political Science and Law and the Southwest University of Political Science and Law independently offered secondary disciplines on human rights law.

In October 2011, the Human Rights Research Center of Nankai University, the Institution for Human Rights at China University of Political Science and Law,

and the Center for Human Rights Education and Research (now Human Rights Institute) of Guangzhou University were confirmed by the Ministry of Education and China Society for Human Rights Studies as the first batch of national-level human rights education and training centers in China. In April 2014, five new national-level human rights education and training centers were opened, including human rights research centers at Renmin University of China, Fudan University, Shandong University, Wuhan University and Southwest University of Political Science and Law, thus increasing the total number of national-level human rights education and training centers to eight.

Theoretical researches on human rights were carried out by the China Society for Human Rights Studies, China Human Rights Development Foundation and National Human Rights Education and Training Base. They edited and published a series of books on human rights, including China's Human Rights in Action and Report on the Development of Human Rights in China. They also set up academic exchange platforms for human rights and started to publish academic periodicals including Human Rights, Human Rights Studies, China Human Rights Review and the Research on the Rights of the Disabled. They developed human rights training materials including Series on Human Rights Knowledge and publicized human rights knowledge throughout the Chinese society. They made efforts to conduct academic exchanges with domestic and foreign counterparts by holding and attending international academic meetings.

7. Cultural Rights

The core socialist values, put forward by the CPC at its Eighteenth National Congress, namely prosperity, democracy, civilization, harmony, freedom, equality, justice, rule of law, patriotism, dedication, integrity and friendship, have established the objectives and pointed out the direction for the development of Chinese social culture in a new era. The Chinese Government has increased the investment and made many achievements in the cultural field.

Public cultural facilities have been further improved. By the end of 2015, China had built 3139 public libraries, 3315 cultural centers, 40,976 cultural stations, 4692 museums and 409 science and technology museums. Between 2012 and 2015, the central government invested RMB 20.3 billion yuan cumulatively to support the free admission to public cultural facilities. By the end of 2015, the number of museums open to the public free of charge had reached 4013. The central government has invested RMB 9.223 billion yuan to make sure that radio and TV broadcasts basically cover all villages with no more than 20 households each and where electricity is available. As part of a cultural information resource sharing project, China has built 35,500 service centers and subcenters in cities and townships and service stations at the grassroots level covering 700,000 villages and communities, which are able to share digital resources amounting to 532 TB, surpassing the planned goal. China has established 600,449 farmers' libraries, and sent more than one billion books and periodicals to rural areas. The country has also built 24,000 satellite digital farmers' libraries and 252 rural digital movie lines, and organized more than 50,000

movie projection teams. Satellite digital movies basically covered 640,000 administrative villages in the whole country with over 9 million movie screenings purchased annually.

Internet construction has provided more convenient conditions for citizens to enjoy cultural rights. At the end of 2015, 688 million people in the country had access to the Internet, covering 50.3% of China's population, surpassing the planned goal of 45%. The number of fixed broadband users reached 210 million. The number of Internet broadband ports reached 470 million, exceeding the planned goal of 370 million. Fiber-optic Internet connection covered 446 million households, surpassing the planned goal by more than 100%. From the above, we can see that scientific and technological progress, especially the development and application of the internet technology, is an important factor in the educational and cultural development in developing countries.

8. Environmental Rights

The Chinese Government has been making unprecedented efforts in and constantly adopting new measures for environmental protection and pollution treatment. As the American news media Bloomberg commented: "The Chinese Government has adopted intensive and wide-ranging green policies, which have changed everything from the demand for electric cars and commodity market and their impacts can be felt throughout the world."⁹ At the NPC held in March 2018, China's leaders announced a 19% increase in spending to curb pollution, to an amount of RMB 40.5 billion. The aim was to reduce heavy air pollution days in key cities by 50% over the next five years.

China has amended the Law on Environmental Protection, with special provisions on information transparency and public participation to guarantee the public's right to know, participate and supervise and provisions on improving the public interest litigation system to provide related social groups with the right to launch public interest litigations and strengthen the system of accountability.

China has been stepping up the effort in the control of air pollution, which is an issue of general concern. In August 2015, China amended Atmospheric Pollution Prevention and Control Law, made improving atmospheric quality as its goal, emphasized government responsibilities and improved measures aimed at controlling air pollution. Between 2011 and 2015, the emissions of 4 major pollutants, including chemical oxygen demand, ammonia nitrogen, sulfur dioxide and nitric oxide, decreased by 12.9%, 13.0%, 18.0% and 18.6%, respectively. In September 2013, the State Council distributed the Action Plan on Air Pollution Prevention and Control, in which it clarified comprehensive treatment measures composed of 10 articles and 35 items, focusing on fine particulate matter (PM_{2.5}) and inhalable particles (PM₁₀). In 2015, all cities at the prefecture level and above implemented new environmental and air quality standards. China has built the largest air quality monitoring network among all developing countries with 338 cities at the prefecture

⁹ Bloomberg [5].

level and above across the country having the capability of monitoring 6 indices including PM_{2.5}.

Efforts were made by China to strengthen the standardization of energy conservation and low carbon. During the 2011–2015 period, the government implemented a project involving the formation and improvement of 100 important energy-saving standards and approved the release of 205 energy-saving state criteria. In 2015, the General Office of the State Council issued the guidelines on strengthening the standardization of energy conservation. The government approved the emissions standards for 10 industries that produce greenhouse gases including steel, iron and cement and issued the phase 5 national standards on automobile fuel. More than five years ago, the hazy weather had caused a lot of discontent and complaint among the people. By 2017, the PM_{2.5} concentration had been reduced by nearly one third in the capital city and by about one tenth in other major cities.¹⁰

Heavy metal pollution has been effectively brought under control. Between 2010 and 2015, the central government appropriated RMB 17.2 billion yuan to support the control and treatment of heavy metal pollution. In 2014, the total pollutant discharge of five major heavy metals, namely lead, mercury, cadmium, chromium and the metalloid element arsenic, decreased by 20% as compared with that in 2007. The number of heavy metal pollution incidents decreased from more than 10 annually on average between 2010 and 2011 to an annual average of less than 3 between 2012 and 2015.

The capability for water pollution treatment has increased. In April 2015, the State Council announced the Action Plan for Water Pollution Prevention and Control. The percentage of inferior class V surface water decreased from 35.7% in 2001 to 8.8% in 2015. During the 2011–2015 period, sewage treatment capacity increased by 48 million tons per day. In 2015, 97.1% of the drinking water from centralized supply sources in 338 cities at the prefecture level and above met the quality standard.

Ecosystem construction has been further pushed forward. With the establishment of the State Committee on Biodiversity Protection, the Ministry of Environmental Protection issued China's Biodiversity Conservation Strategy and Action Plan (2011–2030) and started China's Action for United Nations Decade on Biodiversity. Between 2011 and 2015, China invested RMB 89.8 billion yuan in projects for the conservation of natural forest resources, and put 1.08 million km² of natural forests under effective protection. Efforts were made to continually push forward the construction of key forest shelterbelts in northeast, north and northwest China, the control over the sources of sandstorms affecting Beijing and Tianjin, the comprehensive treatment of stony desertification in karst areas, the key ecological projects of pastureland rehabilitation and the launch of a new round of projects to return farmland back to forestry and pastureland. Between 2011 and 2015, China had already built a localized biodiversity protection network with nature reserves acting as the backbone. The area of established nature reserves reached 1.47 million km², accounting for 14.84% of the country's total land area. Over 90% of the country's land ecosystems, 89% of wildlife species under state protection and 86% of wild plant species

¹⁰ Bloomberg [5].

under state protection were conserved in nature reserves. By the end of 2015, China's forest coverage reached 21.66%. More than 260,000 km² of land suffering from soil erosion had been treated, which was more than the projected figure. By the end of 2014, the national greenery coverage in urban areas was 40.22%, surpassing the planned goal ahead of schedule.

Efforts were made to continually strengthen the enforcement of environmental laws and an accountability system. To implement and put into effect the newly amended Law on Environmental Protection and a circular issued by the General Office of the State Council on strengthening environmental protection supervision, environment monitoring bodies across the country actively innovated with new methods and modes of supervision and law enforcement, and successively carried out targeted actions and inspections on environmental protection and cracked down severely on environmental law violations and environmental pollution crimes, and effectively safeguarded the environmental rights of the public. A compensation system for the damage to the ecosystem has been further improved.

From the above, we can see that the environmental protection work in China is focused on the people's livelihood, supported by strong political will and huge financial investment, and safeguarded by economic development and transition, the improvement of the quality of development, and scientific and technological progress. On the one hand, this means the effective protection of citizens' environmental rights; on the other hand, it also means that the realization of this objective requires the participation and contribution by the whole society and all people.

Although China has made huge achievements in safeguarding economic, social and cultural rights, as a big developing country with a huge population, it is still faced with major challenges and therefore needs to deepen the reform and continue to make unremitting efforts in this respect.

The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015) soberly points out that: "China's economic development mode is still crude and it is still fraught with problems from unbalanced, uncoordinated and unsustainable development. There is still a big gap between urban and rural development. There are still problems of immediate concern to the people remaining to be solved, including medical care, education, old age care, food and drug safety, income distribution and the environment. The corruption and misconduct in some sectors cannot be ignored. There is still a long way to go to realize higher-level protection of human rights in China and hard efforts must be made."

In October 2017, Party General Secretary Xi Jinping pointed out at the Nineteenth National Congress of CPC that, with decades of hard work, socialism with Chinese characteristics has crossed the threshold into a new era. This is a new historic juncture in China's development. The principal contradiction facing Chinese society has evolved. What we now face is the contradiction between unbalanced and inadequate development and the people's ever-growing needs for a better life. This is an important judgment concerning China's overall strategic policy.

Party General Secretary Xi Jinping further pointed out that China has seen the basic needs of over a billion people met, basically made it possible for people to live decent lives, and will soon bring the building of a moderately prosperous society to

a successful completion. The needs to be met for the people to live better lives are increasingly broad. Not only have their material and cultural needs grown; their demands for democracy, rule of law, fairness and justice, security, and a better environment are increasing. At the same time, China's overall productive forces have significantly improved and in many areas its production capacity leads the world. The more prominent problem is that China's development is unbalanced and inadequate. This has become the main constraining factor in meeting the people's increasing needs for a better life. We must recognize that the basic dimension of the Chinese context—that our country is still and will long remain at the primary stage of socialism—has not changed. China's international status as the world's largest developing country has not changed. The evolution of the principal contradiction facing Chinese society represents a historic shift that affects the whole in China. Building on continued efforts to sustain development, China must devote great energy to addressing the problem of imbalances and inadequacies of development and push hard to improve the quality and effect of development. With this, we will be better placed to meet the ever-growing economic, political, cultural, social and ecological needs of our people and to promote well-rounded human development and all-round social progress.

In conclusion, in the process of comprehensively promoting the development of the human rights cause, China has attached high importance to and will continue to raise the level of protection of economic, social and cultural rights, which represent the improvement of the people's livelihood.

References

1. Marks, S. P. (1985). Emerging human rights: A new generation for the 1980s? In R. Falk, F. Kratochwil, & S. H. Mendlovitz (Eds.), *International law: A contemporary perspective* (pp. 501–503). Westview Press.
2. Shestack, J. J. (1984). The jurisprudence of human rights. In T. Meron (Ed.), *Human rights in international law: Legal and policy issues* (p. 73). Clarendon Press.
3. Yasuaki, O. (2003). *Human rights, states and civilizations*. In Z. Wang (Trans.). SDX Joint Publishing Company.
4. Dankwa, V., Flinterman, C., & Leckie, S. (1998). Commentary to the Maastricht guidelines on violations of economic, social and cultural rights. *Human Rights Quarterly*, 20(3), 705–730.
5. Bloomberg. China's war on pollution will change the world. <https://www.bloomberg.com/graphics/2018-china-pollution/?cmpid%3D=socialflow-twitter-economics>. Last visited March 9, 2018.



There is no socialism without democracy. Socialist China attaches high importance to the construction of socialist democracy.

Most people are familiar with China's basic standpoint about human rights, namely taking the right to subsistence and the right to development as the primary human rights, which is incorrectly understood by some people as ignoring the safeguarding of civil and political rights. Actually, the socialist human rights outlook with Chinese characteristics is a comprehensive human rights outlook. China has always adhered to the human rights standpoint of promoting the all-round development of human beings and comprehensive advancement of the human rights cause.

In the introductory part of the National Human Rights Action Plan of China (2012–2015), the Chinese Government stated that it would “effectively safeguard citizens’ economic, political, social and cultural rights and promote social equity and harmony, so as to ensure that every member of society lives a happier and more dignified life.” The Action Plan also provided the principle of comprehensive advance, which must be adhered to in the adoption and implementation of the National Human Rights Action Plan: “Taking all types of human rights as interdependent and inseparable, the Chinese Government determines to promote the coordinated development of economic, social and cultural rights as well as civil and political rights, and the balanced development of individual and collective human rights.” In the introductory part of the National Human Rights Action Plan of China (2016–2020), which is currently under implementation, the Chinese Government once again takes “pushing forward the work in a coordinated way, and promoting the comprehensive and coordinated development of the people’s various rights and interests” as the basic principle to be adhered to in the adoption and implementation of the Action Plan.

In the past 40 years since the reform and opening-up, especially since the Eighteenth National Congress of the CPC, China has closely combined human rights with the rule of law and made many historical progresses in the field of civil and political rights, which demonstrate the positive efforts and prominent achievements made by the CPC and the Chinese Government in constructing political civilization and in effectively realizing human rights in China.

Civil and Political Rights as the First-Generation Human Rights

The International Covenant on Civil and Political Rights (ICCPR) is an important component of the UN International Bill of Human Rights. Together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), they constitute the “two UN human rights covenants”, which are well known to international law scholars. The ICCPR was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966 and entered into force on 23 March 1976, in accordance with Article 49 of the Covenant. By October 1, 2017, the ICCPR had been ratified by 169 countries, signed but not yet ratified by six countries, and neither ratified nor signed by 22 countries.

The drafting of an international human rights convention began immediately after the establishment of the United Nations. As far as the concrete content of the covenant is concerned, the then UN Human Rights Commission, the UN General Assembly, and other relevant organs had encountered many problems. The drafting of the covenant was accompanied by political wrangles. There had been heated debates between the USA and the Soviet Union, between the USA and newly emerged countries, even among western countries. There are intrinsic links between human rights and politics. However, the political factors in the drafting process did not prevent the covenant itself from transcending the subjective consciousness or intentions of some of its drafters, and possessing independent legal significance after its adoption. In fact, various states’ understandings of and attitude toward human rights, including civil and political rights, have been changing and developing.¹ The reinforcement of the development results of human rights ideas finally achieved by the covenant can be regarded as the primary achievement. To a certain extent, the provisions on fundamental human rights in the covenant have more long-term values. Meanwhile, they have laid the foundation for the further improving and developing the protection of relevant human rights.

The ICCPR and ICESCR transform the content of the UDHR into law and make them legally binding on state parties, thus indicating that the development of international human rights had for the first time entered into stage of legal implementation in a general sense.

The covenant consists of a preamble and six parts, with a total of 53 articles. Part I and Part II contain a series of provisions applicable to all the rights provided for in the covenant. Part III provides for concrete substantive individual rights. Part IV provides for the mechanism for the implementation of the covenant. And the final two parts of the covenant contain technical treaty provisions. The covenant consists of a series of fundamental human rights, including such non-delegable rights as the

¹ Dramatically, the Soviet Union, which abstained in the voting on the UDHR and was very enthusiastic about economic, social and cultural rights, became one of the first countries to ratify the covenant, whereas the US, which had actively promoted and supported the UDHR and been very enthusiastic about civil and political rights, ratified the covenant only on June 8, 1992.

right to life, the prohibition of slavery and torture, and personal rights, the right to fair trial, the right to know and the right of expression.

In human rights law, the civil and public rights advocated by Western countries are often called “the first generation human rights”, namely the so-called tradition and classical human rights, as compared to “the second generation human rights”, namely economic, social and cultural rights advocated by socialist countries.

The artificial dichotomy between civil and political rights and economic, social and cultural rights stresses the distinction between the two generations of human rights. In fact, the division of human rights into several different generations is unscientific and misleading. It gives people the misconception that different human rights emerged in an order sequence, or human rights that emerged earlier are superior to those that emerged later. In fact, the historical evolution of human rights is different in different countries. As a result, it is impossible to categorize human rights by stages of emergence. As far as the time of emergence is concerned, some civil rights were recognized as human rights much later than political rights, even later than economic, social and cultural rights in some countries.²

To rectify this misunderstanding and misguidance, the UN has always advocated the concept of the integrity of human rights, which stresses that various human rights are indivisible, interdependent and complementary, and that it not appropriate to use one human right to negative another human right or rank human rights by priority.

Actually, both ICESCR and ICCPR stress in their common preamble that the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

The UN has adopted several resolutions to reiterate that human rights are “interdependent and indivisible”.³ The drafters of the 1948 UDHR had a clear mind on this issue: the universality of human rights is imaginable only if all the rights in the Declaration are safeguarded. Therefore, the Declaration provides in its last article that: “Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.” The Declaration on the Right to Development, adopted by the UN on December 4, 1984, embodies the same idea by pointing out that: “development is a comprehensive economic, social, cultural and political process”, that “all human rights and fundamental freedoms are indivisible and interdependent” and that “equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights”.

The Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights in 1993, clearly points out that: “All human rights are

² See, Rosas [1]. For the discussions on the classification of human rights, see also Bai [2]. Gamble et al. [3].

³ The most famous among them is the UN General Assembly Resolution 32/130, adopted in 1977. The 41st UN General Assembly in 1986 included on its agenda “the indivisibility and interdependence between economic, social and cultural rights and civil and political rights”.

universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”⁴

Different from many treaties, ICCPR does not contain a provision that allows state parties to withdraw from the Covenant. Under this circumstance, the Human Rights Committee established under the Covenant held that, in view of the special characteristics of the Covenant as a human rights treaty, namely the fundamental rights and freedoms provided in the Covenant are enjoyed by all persons under the jurisdiction of a state party and, once confirmed, should not be rescinded, once a state party has ratified the Covenant, it may not abandon their obligations under the Covenant by withdrawing from the Covenant. Similarly, a state party to the Second Optional Protocol of the ICCPR may not withdraw from the protocol, because the protocol does not contain a withdrawal provision either. In contrast, the First Optional Protocol to the ICCPR provides for the procedure for the withdrawal from the Protocol.

A related issue is the continuous application of the Covenant when a state party is broken up into several successor states. According to similar principle, the Human Rights Committee held that the successor states should inherit the obligations of the succeeded predecessor’s obligations under the Covenant.

For example, the Committee considers that Kazakhstan, as a successor state of the Soviet Union, should be bind by the Covenant because the later was a state party to the Covenant at the time of its disintegration. Generally, a successor state will take action to confirm the applicability of the Covenant within its jurisdiction.

Similarly, although China was not a state party to the Covenant when it resumed the exercise of sovereignty over Hong Kong and Macao, UK and Portugal, the two countries that had previously exercised sovereignty over Hong Kong and Macao, were state parties to the Covenant at the time when they returned Hong Kong and Macao to China. Therefore, China agreed to the continued application of the Covenant in these two special administrative regions in accordance with the Sino-British Joint Declaration, the Sino-Portuguese Declaration, the Basic Law of Hong Kong SAR and the Basic Law of Macao SAR.

A state party to the Covenant may also become a state party to either one or both of the two optional protocols to the Covenant. The First Optional Protocol is aimed at establishing an individual complaint system. Under this system, the Human Rights Committee is able to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant. The Second Protocol provides for the abolition of the death penalty. The First Optional Protocol and Covenant were adopted and open for signature at the same date, and they came into force at the same date, namely March 23, 1976. The Second Optional Protocol, aimed at the abolition of the death penalty, was adopted

⁴ A/CONF.157/24 (Part I)/Corr. 1, Part I, para. 5.

by General Assembly Resolution 44/128 of 15 December 1989 and came into force as of July 11, 1991. The title of the first optional protocol was mere “Optional Protocol to the International Covenant on Civil and Political Rights” at the time of its adoption, and was also known as “the First Optional Protocol” after the adoption of the second optional protocol. The term “optional” in the titles means that they are not compulsory, but subject to the autonomy and the political will of state parties. The Second Optional Protocol is different the first one in that it does not contain a provision that allows a state party to withdraw from the protocol. Since the abolition of the death penalty is a substantive progress in respecting the right to life, it should follow the principle of “irreversibility of the development of human rights”.

In international law, strict distinctions are made between such concepts as “signing”, “ratification of”, and “accession to” a formal and important treaty. “Ratification of”, and “accession to” a treaty means a state has become a party to the treaty under international law and must perform the legal obligations under the treaty. Whereas the “signing” of a treaty does not make a state a party to the treaty, only indicating that the state has the intention of ratifying or accessing to the treaty. Generally speaking, signing a treaty means the state confirms the text of the treaty and will respect the basic purposes and principles of the treaty. However, it is still uncertain when the signatory state will formally ratify the treaty and whether it will make reservations or other arrangements in ratifying the treaty. On October 5, 1998, Mr. Qin Huasun, the head of the Permanent Mission of China to the United Nations, signed the ICCPR at the UN Headquarters on behalf of the Chinese Government. Now China is still a signatory state, not a state party to the ICCPR. However, it should be pointed out that, although China is not yet a state party to the Covenant, it has always attached importance to and drawn on international legal resources, especially the purposes, principles and rules of the Covenant, in its legislative and legal practice. For example, the content and standard of the Covenant have been important considerations in the adoption and revision of the criminal law and the criminal procedure law in China.

Against the background of attaching high importance to the construction of democracy and the rule of law, the highest leadership in China has on many occasions expressed positive attitude toward the earlier ratification of the ICCPR.

On the afternoon of January 27, 2004, Mr. Hu Jintao, the then President of China, indicated in a speech given in the Hall of the French National Assembly that the Chinese Government would submit the suggestion on the ratification of the Covenant to the NPC once conditions are ripe.

In May 2004, Mr. Wen Jiabao, the then Prime Minister of China, stated during a visit to Europe that the Chinese Government would make efforts for the early ratification of the ICCPR.

On September 6, 2005, Mr. Luo Gan, then a member of the Standing Committee of the Political Bureau of the CPC Central Committee, stated at the 22rd Conference on the Law of the World that the Chinese Government was actively studying the important issues involved in the ICCPR and would go through the legal procedure of ratification as soon as the conditions are right.

Because of the importance and complexity of the matters involved in the Covenant and the rigorous and serious attitude of the Chinese Government toward the Covenant,

the preparatory work for the ratification of the ICCPR, although has been going on ever since the Chinese Government signed the Covenant, is still not completed today.

The Assessment Report on the National Human Rights Action Plan of China (2009–2010), issued by the Information Office of the State Council on July 14, 2011, especially mentioned that: “China is carrying out legislative and judicial reforms. It amended the Law on Lawyers and the Law on State Compensation to prepare the ground for the ratification of the International Covenant on Civil and Political Rights.”

Soon after that, the Chinese Government once again mentioned in the National Human Rights Action Plan of China (2012–2015) that it “cherishes the important role played by international instruments on human rights in promoting and protecting human rights” and “has continued to carry out administrative and judicial reforms and prepare the ground for approval of the “International Covenant on Civil and Political Rights.”

Some scholars recalled that, as early as in the beginning of 1980s, Mr. Peng Zhen, the then Chairman of the NPC, put forward the motion of acceding to the ICCPR and asked experts to study the feasibility of the accession. Heated debate had been carried out in the academic circle, but no clear stand had been made by the relevant authorities. As early as in 1992, in response to the international situation at that time, scholars of the Institute of Law, Chinese Academy of Social Sciences submitted reports to the Chinese leadership, suggesting that China sign the ICESCR and ICCPR as soon as possible. The reports were attached high importance to by the top Chinese leadership. After 1994, the Chinese Government began to adopt a positive attitude toward the ratification of the two covenants and it signed the two covenants in 1998, on occasion of the 50th anniversary of the promulgation of the UDHR. After signing the covenants, China established a trans-departmental special working group consisting of officials and experts from the Ministry of Foreign Affairs, the Ministry of Justice and the Supreme People’s Courts to prepare for the ratification of the Covenant.⁵ The law circle also began to carry out in-depth interdisciplinary researches on the Covenant.⁶

Most of the content of ICCPR has already been embodied in the Chinese Constitution. Since the reform and opening-up, especial in recent years, China has made its laws and institutions more and more compatible with the ICCPR.

Although China still retains the death penalty, it adheres to the principle of strict control and cautious application of the death penalty. In recent years, China has adopted a series of important measures for improving the evidence system in death penalty cases, reducing capital crimes, standardizing the application and procedures of the death penalty, so as to further reduce its application. In 2012, China revised the Criminal Procedure Law to incorporate the principle of “respecting and safeguarding human rights into the law and further improve the procedure of review of death penalty cases.

⁵ Xu [4].

⁶ Chinese legal scholars have carried out active research on the ICCPR. The main publications in this field include: Chen [5]; Sun [6]; Yang [7]; Peng [8]; and Zhu and Liu [9]. A representative translated work in this field is Nowak [10].

The revised Criminal Procedure Law clearly provides that no one shall be forced to prove his own guilt, and further improved the system of exclusion of illegally obtained evidences. The revised Criminal Procedure Law and the supporting judicial interpretations have further improved the institutions safeguarding the right of the defendant to fair trial.

In June 20, 2003, the State Council promulgated the Measures for the Administration of Relief to Vagrants and Beggars without Assured Living Sources in Cities, thus abolishing the detention and repatriation system that had been implemented for many years. These measures were closely related to the personal freedom provided for in the ICCPR. With the change of national situation, the call for the abolition of the re-education through labor system became louder and louder.

On November 12, 2013, the CPC adopted Decision of the CPC Central Committee on Some Major Issues Concerning Comprehensively Deepening the Reform at the Third Plenary Session of its 18th Central Committee. The Decision clearly states in the part on “Promoting the Rule of Law” that China will “Improve the system of judicial protection of human rights; respect and protect human rights...improve the mechanism for preventing and correcting wrong cases and the accountability system, prohibit extorting confession by torture, corporal punishment and maltreatment, and strictly implement rules on the exclusion of illegally obtained evidences, and gradually reduce the number of capital crimes.” Especially it would “abolish the system of re-education through labor, improve laws for the punishment and correction of unlawful and criminal acts, and perfect the community correction system.” Through these measures, China has moved one step closer to the compatibility with ICCPR.

It should be pointed out that it is not possible, nor is it necessary, for a state party to revise its domestic laws to make them completely compatible with the Covenant. The international law allows a state to make reservations or interpretative declarations in ratifying or acceding to a convention. For example, the USA made over 10 reservations to the ICCPR when ratifying it; some countries even made over 100 reservations. Reservation is a matter of legal technicality. State parties, as sovereign powers, have the right to make appropriate accommodations in light of their own national conditions and political and legal systems under the precondition of not contravening the purposes and objectives of a convention when ratifying it.

Signing, ratifying or acceding to the Covenant is only the first step toward the implementation of the Covenant. Compared to rapidly ratifying or acceding to the Covenant without any reservation, a more serious and responsible attitude toward the Covenant is to make the necessary political and legal preparation for the implementation of the Covenant while at the same time making the necessary reservations on the provisions in the Covenant that China is not yet ready to accept.

According to the legally prescribed procedures in China, the ratification of such important treaties as the ICCPR must be first proposed by the State Council, then approved by the NPC and finally signed and promulgated by the state president. It is expected that the ratification of the ICCPR will be a major event in the development of the rule of law and human rights cause in China with positive and profound impact.

Measures for Safeguarding Civil and Political Rights

There is a close relationship between the safeguarding of civil and political rights and the overall construction of democracy and the rule of law in China.

Party General Secretary Xi Jinping pointed out in a report given at the Nineteenth National Congress of the CPC that the path of socialist political development with Chinese characteristics is the logical outcome of the evolution of history, theory and practice. There are no two countries in the world with completely identical mode of political system. A political system should not be judged in an abstract way divorced from specific social and political conditions and historical and cultural traditions. There is no single mode suitable for all countries and China should not mechanically copy the political system from any foreign country, but should always adhere to and continuously develop the socialist democratic political system with Chinese characteristics, actively and prudently advance the political reform and improve the institutions, standards and procedures of socialist democracy, and ensure that people participate, in accordance with law and in various ways and forms, in the management of state, economic, cultural and social affairs.

It can be said that the characteristics of the safeguarding of civil and political rights in China are exactly the embodiments of the development path of socialist political system and the rule of law with Chinese characteristics.

Broadly speaking, the basic measures taken by China to safeguard civil and political rights include: pushing forward administration by law, strengthening judicial protection of human rights and expanding the orderly political participation by citizens.

Since the reform and opening-up, especially since the Eighteenth Party Congress, China has adhered to the practice of embodying the principle of respecting and safeguarding human rights in each link of legislative, administrative and judicial work and strengthened the supervision over and restraint on powers. China has combined safeguarding human rights with strengthening the construction of democracy and the rule of law, actively and prudently advanced political reform, expanded the orderly political participation by citizens, implemented in accordance with law the systems of democratic election, democratic decision-making, democratic management and democratic supervision, and effectively safeguarded the people's right to know, right of participation, right of expression and right of supervision.

The National Human Rights Action Plan of China (2016–2020), which is current under implementation, contains specific provisions on the measures taken by China for safeguarding civil and political rights. The Fourth Plenary Session of the Eighteenth Central Committee of the CPC, concluded in Beijing on October 23, 2014, was the first plenary session of the CPC Central Committee since the reform and opening-up to take “ruling the country by law” as its theme. The Decision of the CPC Central Committee on Major Issues Pertaining to Comprehensively Promoting the Rule of Law, adopted at this meeting, is a major node in the process of developing the rule of law in China with the significance of connecting the past and the future.

The Decision provides for the important program of development of the rule of law and the human rights cause in China: Most of its content involves human rights, and it directly mentioned human rights twice. The first mention is made in part II of the decision (Perfecting the Socialist Legal system with Chinese Characteristics, with the Constitution at the Center, and Strengthening the Implementation of the Constitution), under the subject of “Strengthen Legislation in Focus Areas”. It clearly points out that: “China will guarantee citizens’ rights according to law, accelerate the perfection of legal systems reflecting equality in rights, opportunities and rules, protect citizens’ personal rights, property rights, basic political rights and rights in all other areas against infringement, ensure that citizens’ economic, cultural, social and all other rights are implemented, bring the protection of citizens’ rights under the rule of law, enhance the consciousness of respecting and protecting human rights of the whole society, and complete channels and methods of relief for citizen’s rights.”

The second mention is made in part IV (Ensuring Judicial Fairness and Enhancing Judicial Credibility) under the subject of “Strengthening Judicial Safeguarding of Human Rights”, especially pointing out that: “China will strengthen institutional protections of parties’ and other litigation participants’ right to know, right to make statements, right to defense and debate, right to make application, and to appeal in the litigation procedures, complete legal systems for implementing such principles as legally prescribed punishment for a specified crime, *in dubio pro reo*, and exclusion of illegal evidence, improve judicial supervision over judicial measures and investigatory methods that limit personal freedom, strengthen the prohibition of such practices as extorting a confessions through torture and illegally obtaining evidence, and improve the mechanisms for the effective prevention and timely correction of wrongfully convictions.”

The followings are further summarizations of and introductions to the measures taken by China for strengthening the protection of civil and political rights.

1. Personal Rights

The safeguarding of the personal rights of citizens mainly involves public authorities, especially law enforcement and judicial organs. The Chinese Government stresses the regulation of law enforcement and judicial activities that involve the personal rights of citizens. Especially, it has taken measures to prevent the practice of extorting a confession by torture, regulate places of detention and safeguard the rights of various kinds of persons whose personal freedom is restricted. Concrete measures include:

Improving the legal systems of administrative organization and administrative procedure: administrative organs may not assume powers outside the law or take compulsory measures or impose punishment restricting the personal freedom of citizens without constitutional or legal basis. Improving law enforcement procedure: establishing the whole-process law enforcement recording system and improving the system of judicial supervision over the administrative compulsory measures involving citizens’ personal rights.

Extorting a confession by torture has been a “chronic illness” in the judicial work at all times and in all over the world. For this reason, judicial organs have improved the judicial supervision over judicial measures and investigation methods that restrict personal freedom, strengthened the prohibition of such practices as extorting a confessions through torture and illegally obtaining evidence, and improved the mechanisms for effective prevention, timely correction of wrongfully convictions, implemented the system of synchronized audio and video recording in the whole process of interrogation of criminal suspect, and gradually expanded the scope of its application.

China has strengthened the rigid restraint on the case-handling activities of public security organs, reformed and improved the systems of acceptance and hearing of cases, appraisal of law enforcement effectiveness, and accountability for mistakes in law enforcement, strengthened the management of the use of case-handling sites and areas for law enforcement and improved the IT application in law enforcement for public security bodies.

Lawyers play an important role in safeguarding citizens’ rights in judicial procedure. Currently, China is making efforts toward the direction of improving the mechanism for consulting lawyers at the stage of investigation and better implementing the Criminal Procedure Law and the Lawyers’ Law. For example, the Supreme People’s Procuratorate requires in an opinion that, where the defense lawyer entrusted by a criminal suspect provides written opinions, materials and evidence that prove the suspect’s acts do not constitute a crime, arrest is unnecessary, detention is unsuitable or investigation is illegal, the procurator shall state clearly in the relevant written report on investigation and arrest the conditions and reasons for whether or not adopting the lawyer’s opinions.

Related to the safeguarding of personal freedom, China is also making greater efforts to investigate and punish government functionaries who abuse power to illegally detain people or commit other crimes that infringe upon citizen’s personal rights.

Improving the system of examining and approving the necessity of criminal custody: Where custody is deemed unnecessary or unsuitable due to severe illness, the criminal suspects or defendants shall be released or the coercive measures be changed. Enhancing supervision over the duration of criminal custody: Efforts shall be made to prevent and settle prolonged detention of suspects without concluding the case, and strictly implement the systems of changing custody, reporting overdue custody and accountability for detention beyond the legally prescribed time limit. Strictly implementing the rules and regulations on places of custody: The mechanism for handling detainees’ complaints shall be improved, and channels of right relief be unblocked for them. IT application in relation to procuratorial work shall be strengthened for places of custody, and dynamic oversight be realized in such places.

The application of the death penalty is an issue of major concern in the field of human rights. China is a country that retains the legal possibility of application of the death penalty but strictly controls the conditions of its application. It has, on the one hand, strengthened the death sentence review procedure, and on the other hand, further standardized the procedure for the supervision over the review of death sentences. On this basis, China strictly controls and cautiously applies the

death penalty and ensures that it is imposed only on a very few criminals who have committed extremely serious crimes.

Attaching importance to the safeguarding of human rights in such sensitive fields as medical treatment and drug rehabilitation: promoting procedure-based enforcement, medical care, and management of and supervision over compulsory medical treatment, and protecting the rights of those receiving compulsory medical treatment; implementing the Anti-Drug Law and the Regulations on Drug Rehabilitation; standardizing in accordance with law decision-makings on compulsory isolation for drug rehabilitation and early termination or extension of the terms of such drug rehabilitation; and improving the effectiveness of medical treatment and rehabilitation in relation to drug addiction, and protecting the lawful rights of drug addicts undergoing rehabilitation.

On December 28, 2013, the Standing Committee of the NPC adopted the decision on repealing the legal provisions on re-education through labor.

2. Right to Fair Trial

To safeguard the right to fair trial, China has endeavored to follow the rule of judicial operation, establish an adjudication-centered litigation system, and enhance judicial credibility. Concrete measures include: ensuring that people's courts exercise adjudicative power independently and in accordance with the law; improving the system that archives leading officials' intervention in judicial activities and in the handling of particular cases, making them known to the public, and holding them accountable; clearly defining the limits of authority at all levels within the judicial bodies; and improving the mechanism for internal checks and oversight and the recording and the accountability systems regarding judicial personnel who intervene in case handling.

China is a country with a large territory and big regional differences. This, together with the differences in the level of understanding and the capacity for the application of law among judicial personnel, may lead to the phenomenon of "similar cases receiving different judgments" on the basis of the same legal system. Chinese judicial organs endeavor to unify the criteria for the application of the law by standardizing judicial interpretation and case guidance.

Evidence is the key to litigation and plays a crucial role in safeguarding the human rights of parties to litigation. Judicial organs in China have endeavored to implement the principle of evidentiary adjudication, the principle of testimony and trial in court, and the system of court appearance of witnesses and authenticators.

In criminal proceedings, the implementation of the principle of presumption of innocence is the basis of human rights protection. For this reason, judicial organs in China have strictly implemented the rule of exclusion of illegally obtained evidence, and further specified the scope and exclusion procedures of illegal evidence.

To give full play to the role of lawyers in upholding citizens' rights, China has taken the following measures: enhancing institutional guarantee for lawyers' rights to know, right to apply and right to petition throughout the course of litigation,

guaranteeing their access to criminal suspects or defendants, and rights to review files, collect evidence, raise questions, conduct cross-examinations and debate, and ensuring lawyers' exercise of their rights of defense and procuration in accordance with the law; improving the mechanism for valuing lawyers' defense and procuration opinions in investigation, prosecution and trial, and implementing the system of listening to their opinions; and prohibiting discriminatory security checks of lawyers and providing lawyers convenience for them to perform their duties in accordance with the law.

Strengthening the relief to victims of crimes is an indicator of the transition of criminal law idea from that of "public power" to that of the combination of "public power" and "civil rights". Currently, China is formulating the Law on Assistance for Victims of Crime, and endeavoring to establish as soon as possible a unified, procedure-based relief system for victims of crime.

Enhancing institutional guarantee for the rights of litigants and other parties involved in the lawsuit to know, present views, debate and defense, apply and appeal, and implementing regulations on legal aid prescribed in the Criminal Procedure Law and related rules and regulations; improving the practice of leniency to those who confess their crimes and accept punishment in criminal proceedings; clarifying the judicial proceedings, penalty standards and handling method for cases where defendants plead guilty, accept punishment, and actively surrender ill-gotten gains or pay compensation of their own accord; and pressing forward with standardization of sentencing, regularizing judges' sentencing discretion, improving sentencing procedures and enhancing openness and impartiality in sentencing.

Litigation efficiency involves both the effective operation of judicial organs and the safeguarding of human rights. To raise litigation efficiency, China has been continuously improving the mechanism for fast-track handling of minor criminal cases and reforming fast-track trial procedures for criminal cases in an orderly manner. Since 2017, China has established Internet courts in the cities of Hangzhou, Beijing and Guangzhou, which is a good innovation in improving litigation efficiency.

To protect the personal dignity of participants of criminal proceedings, it is prohibited for defendants who are held in custody or appellants to appear in court wearing clothing that bear the logo of their institutions of custody.

3. Religious Freedom

The white paper China's Policies and Practices on Protecting Freedom of Religious Belief, issued by the Information Office of the State Council on April 3, 2018, shows that the major religions practiced in China are Buddhism, Taoism, Islam, Catholicism and Protestantism, with a total of nearly 200 million believers and more than 380,000 clerical personnel. China has numerous Buddhist and Taoist believers, but it is difficult to accurately estimate their numbers as there are no set registration procedures which ordinary believers must follow as part of their religion. There are around 222,000 Buddhist clerical personnel and over 40,000 Taoist clerical personnel. The

minority ethnic groups believing in Islam have total population of more than 20 million, with about 57,000 clerical personnel. Catholicism and Protestantism have 6 million and 38 million followers in China, respectively, with 8000 and 57,000 clerical personnel. China also has many folk beliefs which are closely linked to local cultures, traditions and customs, in which a large number of people participate. There are approximately 5500 religious groups in China, including seven national organizations which are Buddhist Association of China, Chinese Taoist Association, China Islamic Association, Chinese Catholic Patriotic Association, Bishops' Conference of Catholic Church in China, National Committee of the Three-Self Patriotic Movement of the Protestant Churches in China, and China Christian Council.

In the religious field, China has adopted policies on freedom of religious belief based on national and religious conditions, built active and healthy religious relationships, and maintained religious and social harmony. Since the 18th CPC National Congress in 2012, China, under the staunch leadership of the CPC Central Committee with Xi Jinping as the core, has advanced law-based governance in all respects, integrating religious work into the national governance system, implementing constitutional provisions on religious freedom, employing laws to deal with all social relationships concerning religion, and improving the management of religious work under the rule of law. This is an important characteristic and prominent development trend of the religious work in China.

Respecting and protecting religious freedom is a basic religious policy of the CPC and the Chinese Government, which should be understood in a comprehensive way. It has the following concrete meanings: Every citizen enjoys the freedom to choose whether to believe in a religion; to believe in a certain religion or a denomination of the same religion; to change from a non-believer to a believer and vice versa. Believers and non-believers enjoy the same political, economic, social and cultural rights, and must not be treated differently because of a difference in belief. The State respects citizens' freedom of religious belief and protects their normal religious activities. In exercising their freedom of religious belief, believers should not interfere in the lawful rights of other people, or force others to believe in any religion. Believers should not discriminate against non-believers or believers of other religions. No one shall use religion to interfere in the lawful rights and interests of citizens. Believers should respect public order, customs, cultural traditions and social ethics in exercising their freedom of religious belief.

China stresses managing religious affairs in accordance with the law. The State treats all religions fairly and equally and does not exercise administrative power to encourage or ban any religion. No religion is given preferential treatment above other religions to enjoy special legal privileges. The State manages religious affairs involving national and social public interests in accordance with the law but does not interfere in the internal affairs of religions. The State protects citizens' freedom of religious belief, normal religious activities and the lawful rights and interests of religious groups, bans illegal religious activities, prohibits the dissemination of extremist thoughts and engagement in extremist activities in the name of religion, resists the infiltration of hostile foreign forces taking advantage of religion and fights against illegal and criminal activities under the guise of religion. Believers should

abide by the Constitution, laws, rules and regulations of the country. Religious activities should be carried out within the bounds of the law. No religion should interfere in the implementation of administrative, judicial and educational functions of the State. No abolished religious and feudal privileges should be resumed. No activities which employ religion to endanger social stability, national unity and State security are allowed.

In recent years, China has carried out the following work in safeguarding citizens' religious freedom:

Firstly, strengthening legislation on religious affairs, regulating in accordance with the law the conduct of the government in managing religious affairs and protecting the lawful rights and interests of religious believers.

Secondly, supporting the efforts of the religious circles for self-improvement to enhance their capabilities for self-regulation, self-discipline and self-management, providing necessary support and assistance for religious groups to hold activities and encouraging religious circles to organize charity activities in accordance with the law.

Thirdly, making efforts to run the religious institutes well, improving the training of religious professionals and improving the qualities of faculty and staff of religious institutes.

And fourthly, actively engaging in religious exchanges with the outside world and improving organization and services for the Islamic Hajj.

4. Right to Know and Right to Participation

In modern society, the right to know and the right to participation are becoming more and more important and richer and rather in their content and form. The Chinese Government has been making efforts to expand citizens' right to know through various channels and in various fields, and increasing the means and forms of their orderly participation in social governance. Administrative organs have been further pressing forward with making public the lists of powers and responsibilities for easier supervision by the public. Governments at all levels and their subordinate departments have made public their functions, responsibilities, powers, administrative procedures and means of accepting public supervision. China has introduced the administrative law enforcement publication system, improved the construction of online administrative information data platform and public service platform and raised the level of informatization and intensification of the openness of governmental affairs; and improved the information disclosure system for emergencies.

Legislative organs have enlarged public involvement in legislation by exploring for the establishment of a mechanism in which state organs, social groups, specialists and scholars provide argument and consultation for the adjustment of major interests in the process of legislation, thus expanding the channels for the public's orderly participation in legislation, and improving the mechanisms for soliciting public opinion in the drafting of laws and administrative rules and regulations, and

giving feedbacks to the public. Judicial organs have actively advanced the disclosure of information about police, prison, adjudicative and procuratorial affairs, timely released information about the basis, procedures, processes and results of administration of justice and law enforcement in accordance with the law, and established a system of unified online publication and open inquiry of effective legal documents.

People's courts have implemented the plan of doubling the number of people's jurors, expanding the channels and scope of their selection and appointment, and specifying their functions and powers. People's procuratorates have further improved the mechanism of specially-invited procurators, and taken effective measures to ensure they perform their duties in accordance with the law and participate in the deliberation of procuratorial affairs, continuously improved the people's supervisor system, reformed mechanisms for the selection, appointment and management of people's supervisors, fully protected their rights, and expanded the channels for the public's orderly participation in judicial affairs. Moreover, the relevant departments have endeavored to ensure public participation in judicial mediation and hearing and to address petition letters and visits in relation to legal proceedings.

At the grassroots level, China has, on the one hand, revised the Organic Law of Urban Residents' Committees, and accelerated the pace of formulating or amending supporting laws and regulations of the Organic Law of Villagers' Committees, forged ahead with transparency of the work of urban residents' and villagers' committees, and encouraged democratic participation by urban and rural residents; and on the other hand, improved the system of democratic management of enterprises and public institutions in the form of employees' congresses, made efforts to press forward with institutionalization and normalization of information disclosure in enterprises and public institutions, and guarantee employees' right to know and to participate in democratic management.

In recent years, more and more importance has been attached to social "soft laws", which are supplements to state laws and local regulations. China has made efforts to bring into play the positive role of citizens' code of conduct, village regulations and folk conventions, and statutes of trades and social groups in social governance and to promote self-governance of society.

More and more importance has been attached to the role of NGOs. In China, most NGOs are called social organizations. The Chinese Government supports social organizations to participate in the provision of social services and has made efforts to develop social work service agencies and voluntary service associations, promote the separation of trade associations from administrative bodies, facilitate the orderly development of charity organizations and improve the systems of registration and management of social organizations and of government purchase of services from them.

In a report delivered at the 19th National Congress of the CPC in October 2017, Party General Secretary Xi Jinping stressed that China would create a social governance model based on collaboration, participation and common interests. He pointed out that China would step up institution building in social governance and improve

the law-based social governance model under which Party committees exercise leadership, government assumes responsibility, non-governmental actors provide assistance, and the public get involved; strengthen public participation and rule of law in social governance, and make such governance smarter and more specialized; improve mechanisms for preventing and defusing social tensions, and properly handle problems among the people; improve the system of public psychological services, and cultivate self-esteem, self-confidence, rationality, composure and optimism among the people; and strengthen the system for community governance, shift the focus of social governance to the community level, leverage the role of social organizations and see that government's governance efforts on the one hand and society's self-regulation and residents' self-governance on the other reinforce each other. The report is of great guiding significance to the development of social organizations and the reform of social organization administration mechanism in China.

The Law of the People's Republic of China on the Administration of Activities of Overseas Non-Governmental Organizations within the Territory of China, which became effective on January 1, 2017, has attracted tremendous attention. This law applies only to overseas NGOs in China, mainly including overseas foundations, social groups and think-tanks, but not schools, hospitals, academic research institutions in the fields of natural science and engineering technology. Domestic social organizations in China are characterized by late start, lack of experience and weak capacity, whereas overseas NGOs are characterized by abundance of funding, long history, strong specialization and rich experience, and thus have a relatively strong influence in China.

While playing actively role in many aspects, overseas NGOs' maladjustment to and contradiction with the Chinese domestic conditions in such aspects as political ideas have become increasingly prominent. Similarly, their operational mode, which works well in their home countries and in other countries, is not necessarily adapted to the domestic environment in China. Professor Manfred Nowak, a human rights law scholar in Austria, made a list of 22 famous international human rights NGOs, only three of them are based in developing countries.⁷ Many of them carry out their work in an antagonistic and humiliating way. Because of such a working method, they are not welcomed in many countries, including China. Faced with the powerful entry of overseas NGOs, China endeavors to strike a balance between the safeguarding of rights and legal restriction in legislation. Rather than closing the door on them, China has provided them with necessary services and conveniences to enable them to give full play to their constructive role. Meanwhile, in carrying out their activities in China, they must comply with the requirements set by the Chinese law, rather than simple copy their practice in other countries or do whatever they want in China according to their own values and social ideas. Legislation is only the first step. More important is the enforcement of the legislation. China endeavors to realize balanced legislative objectives and good governance in the field of activities of overseas NGOs in China.⁸

⁷ Nowak [11].

⁸ Liu [12].

5. Rights of Expression and Supervision

There is a close relationship between the rights of expression and the right of supervision - the two fundamental civil and political rights. The Chinese Government endeavors on the one hand to give more space to public opinion, and increase the means and channels of expression, so as to safeguard citizens' right of expression and, on the other hand, to improve, through the strengthening of the right of expression, the check and supervision system for the operation of power, and protect in accordance with the law citizens' rights of free expression and democratic supervision.

In the Internet era, the right of expression includes citizens' freedom of expression on the Internet. China protects citizens' freedom of speech on the Internet in accordance with the law, further improves services for netizens to express their opinions, and attaches importance to social sentiments and public opinions as expressed on the Internet.

In recent years, China has taken decisive measures to fight against corruption. These measures are, to a large extent, also conducive to social participation. For example, China has established a registration system for complaints about and reports of unlawful acts by state organs at all levels, and smoothed out such supervisory channels as informants' letterbox, complaint e-mail and hotline, so as to give full play to public supervision. The system of complaint letters and visits is a unique system in China and an important form and channel of social supervision over the government. In recent years, this system is faced with many challenges in practice in such aspects as filing complaint in accordance with law and standardized handling complaint cases. The Chinese Government has adopted the following measures to improve the system: promoting law-based handling of complaint letters and visits, improving mechanisms for separating litigations from complaints, and bringing to conclusion all petitions relating to legal proceedings lodged by letters or visits to relevant government departments, building a platform integrating accusation, offense reporting, appeal, complaint, consultation and search, encouraging online processing of complaints, classifying and handling complaints in accordance with the law, and resolving citizens' rational and lawful appeals in accordance with legal provisions and procedures.

The Chinese legislative organs will also revise the Law on Administrative Reconsideration, so as to safeguard the right of citizens and social organizations to supervise administrative organs through the application of administrative reconsideration and strengthen the oversight on civil servants' violations of law and discipline.

The role of the media has also been attached great importance to. The Chinese Government gives full play to supervision by newspapers, magazines, radio, television and other types of traditional media, strengthens the interaction between traditional media and new media like the Internet, highlights law-based online supervision, protects in accordance with the law the rights of news agencies and their staff to information, interview, publication, criticism and supervision.

The people's congress system is the fundamental political system in China. It is of great significance to ensure that deputies to people's congresses perform their

functions in accordance with law. China is currently improving the system of constitutional supervision by the NPC and its Standing Committee, the mechanism for the interpretation of the Constitution, and the system of legislative recordation and review and capability building, and bringing all normative documents into the scope of such recordation and review, so as to ensure that all normative documents that contravene the Constitution or laws will be abrogated or corrected. The system of political consultative conference is also a system with unique Chinese characteristics. Political consultative conferences at various levels have endeavored to build a platform of political consultation and enrich the contents and forms of consultation, conduct extensive consultation targeting issues bearing on overall social and economic development and the people's immediate interests, and improved the mechanisms for organizing democratic supervision, safeguarding related rights and interests, providing feedbacks and facilitating communication and coordination. Effective implementation of the people's congress system and the political consultation system is also an important guarantee for citizens' right of expression and right of supervision.

6. Fight Against Corruption

The close relationship between the fight against corruption and human rights is becoming an international consensus. The UN Human Rights Council convened a special group discussion on the negative impact of corruption on the enjoyment of human rights in March 2013.

The Office of the UN High Commissioner for Human Rights points out three key points of the relationship between human rights and fight against corruption: Firstly, corruption is a huge obstacle to the realization of all human rights—civil, political economic, social and cultural rights as well as the right to development; secondly, the most effective way of fighting corruption is to adhere to and implement such core human rights principles as transparency, accountability, non-discrimination and meaningful participation; and thirdly, currently the urgent tasks faced by the international community in the fight against corruption are enhancing the cooperativity of the intergovernmental efforts and implement the United Nations Convention against Corruption.⁹

With respect to the concrete anti-corruption measures, the CPC and the Chinese Government have adhered to the principle of letting no place out of bounds, leaving no ground unturned, showing no tolerance, imposing tight constraints and maintaining a tough stance and a long-term deterrence, continuously advanced the adoption of national anti-corruption legislation, and created a corruption reporting platform that covers both disciplinary inspection commissions and supervision agencies; and attached high importance to pursuing fugitives and seizing their stolen goods

⁹ "Human Rights and the Fight against Corruption", available at the website of the Office of the UN High Commissioner for Human rights, at <http://www.ohchr.org/ch/Issues/Development/GoodGovernance/Pages/AntiCorruption.aspx>, last visited January 30, 2018.

abroad and bringing them to justice wherever they flee. China has deepened the reform of the national supervision system, and is now expanding the pilot work in the whole country, and establishing national, provincial and municipal supervisory committees to realize the full supervisory coverage of all public officials exercising public power. China has strengthened the national supervision legislation, given the supervision commissions the necessary competences and means of investigation for carrying out their work, replaced the practice of *shuanggui* (A form of intraparty disciplinary action that requires a Party member under investigation to cooperate with the questioning at a designated place and a designated time) with detention; reformed the audit administration system and improved the statistical system; established an authoritative, efficient oversight system with complete coverage under the Party's unified command; and integrated intraparty oversight with oversight by state organs, democratic oversight, judicial oversight, public oversight, and oversight through public opinion. All these have created a powerful synergy for conducting oversight. With these measures, China has made a historical breakthrough in the reform of the political system, which is also a milestone in the development of human rights safeguarding mechanism.

In conclusion, China has effectively strengthened the institutions and mechanisms for the safeguarding of the civil and political rights, which are the embodiment of the CPC's and the Chinese Government's strong political will to development socialist democracy and their firm resolution to advance the rule of law in a comprehensive way, as well as an integral component of the strategy of deepening the reform in a comprehensive way, advancing the modernization of the state governance system and capacity, and promoting the development of the human rights cause in China.

Achievements and Challenges

With economic development, social progress and the comprehensive advancement of socialist democracy and the construction of the rule of law, the safeguarding of civil and political rights in China has become more and more effective.

1. Rights of the Person

The amended Criminal Procedure Law adopted in March 2012 clearly stipulates the respect for and protection of human rights and improves the evidence collecting system, compulsory measures, the defense system, criminal investigation measures, trial procedures and enforcement procedures.

The personal rights of criminal suspects have been guaranteed. The Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Public Security have promulgated more detailed regulations on the applicable conditions,

approval procedures and notification procedures for the adoption of such compulsory measures as arrest, release on bail pending trial and residential surveillance. Between 2012 and 2015, procuratorates throughout the country disapproved the arrest of 816,379 people, among whom 340,491 were not arrested on the grounds that they were posing no danger to society, 63,809 were not arrested on the grounds that their behavior constituted no crimes, and 379,290 were not arrested on the grounds of unclear facts and insufficient evidence. The public security organs have strictly followed rules that require notifying the family members of criminal suspects within 24 h of detentions or arrests. During the first interrogation or while taking compulsory measures, criminal suspects have been informed of their right to retain defense lawyers, or to apply for legal aid. An Internet appointment platform has been established to publicize phone numbers for appointments and provide convenience for lawyers to meet suspects. Great efforts have been made to push forward the construction of legal aid centers within detention houses to make sure that detainees and their families obtain timely legal aid. During a criminal investigation, defense lawyers can inquire about the accusations and major established facts implicating the suspects in the crimes and the situation of compulsory measures taken by the investigation organs.

The supervision and examination against extortion of confession by torture and other illegal acts have been strengthened. Between 2012 and 2015, procuratorial organs made 869,775 remedial proposals on such illegal acts during criminal investigations as abusing compulsory measures, collecting evidence by illegal means and extorting a confession by torture. In 2015, China handled 208 cases against 243 procurators for their violation of laws and disciplines. Since 2012, Chinese procuratorial organs have continued to take stern actions to investigate and deal with cases concerning staff members of state organs who violated citizens' personal rights by taking advantage of their functions and powers.

The regulations on comprehensive collection and examination of evidence have been strictly implemented. Public security organs put all evidence collected proving guilt or innocence, felony or misdemeanor on file, with all records then transferred to people's procuratorates for the examination of the reliability, legitimacy and probative value of evidence. People's procuratorates place on record all the proposals made by defense lawyers about cases of suspects constituting no crimes, causing no harm to society or excluding evidence collected through illegal means. Before the end of criminal investigations, if defense lawyers make demands, public security organs are required to listen to their views, verify facts according to specific circumstances and place them on record. If defense lawyers submit opinions in written form, the document should be attached to the other records. Public security organs have standardized the use and management of the venues of law enforcement and case investigation. Case investigation areas are separated physically from other areas to ensure that criminal suspects have food and drinks and necessary time for rest in these venues. After being taken into public security organs, criminal suspects should be taken directly to case investigation areas where video surveillance systems should be installed. By the end of 2015, public security organs at various locations

had completed the standardized renovation of venues of law enforcement and case investigation.

On December 28, 2013, the Standing Committee of the NPC adopted a decision according to which the system of re-education through labor was abolished and persons against which re-education through labor was legally enforced were released from re-education through labor without enforcement of the remaining term, thus formally abolishing a system that lacked solid legal basis and failed to meet the human rights standard requiring that citizens can be deprived of their personal freedom only under the precondition of being fully guaranteed of their right to fair trial by juridical organs in accordance with law. This is a landmark event in the Chinese legal history and an important embodiment of the importance attached by the Chinese Government to safeguarding civil rights and bringing the protection of human rights under the rule of law.

The system of community-based correction has been further improved. The Criminal Procedure Law amended in 2012 stipulates that those criminals sentenced to public surveillance, probationary suspension, parole and serving terms outside of jail temporarily should undergo community-based correction according to law, and be subject to the administration of community correctional institutions. According to the relevant provisions of the Criminal Law and the Criminal Procedure Law, the Ministry of Justice worked with other related departments in jointly laying down the Measures for the Implementation of Community Correction, which contain comprehensive stipulations on the delivery, execution and legal supervision of community correction. Efforts have been made to strengthen education and management and effectively raise the quality of community correction. To help those serving sentences adapt to society, the government have formulated, improved and implemented earnestly the assistance policy, and coordinated with others to find solutions to their problems relating to employment, schooling, subsistence allowances, provisional aid and social security, which has helped create conditions for those serving sentences to feel reassured in receiving community correction and reintegrate themselves back into society. By the end of 2015, China had established 1339 community-based correction centers at the county (district) level, which received cumulatively 2.702 million people serving sentences, and released cumulatively 2.004 million such people. There were 698,000 people serving sentences on the roster to receive community correction, and the rate of recidivism for people receiving community correction has remained at a relatively low level of 0.2%.

The Supreme People's Court has earnestly implemented the Order of Special Pardons of the President of the People's Republic of China, signed by President Xi Jinping in August 2015 and the Decision of the Standing Committee of the NPC on Granting Special Amnesty to Some Prisoners. Special pardon is a system of exemption from or reduction of criminal punishment granted by the state to particular criminals. It is an internationally accepted humanitarian criminal punishment execution system. This special pardon was the first one since the implementation of the current Constitution in China. The Supreme People's Court demanded that all those who meet the conditions for special pardon must be given the pardon while none of

those who do not meet the conditions shall be given the pardon, that strict procedures for granting pardon must be followed, the handling of cases and the making and service of legal documents must be standardized, and that all decisions on special pardon must be published and subject to supervision by the whole society. In August 2015, the NPC Standing Committee decided to grant amnesty to four categories of prisoners. By the end of 2015, official pardons had been given to 31,527 prisoners according to law.

The human rights issue has often become an obstacle to China's pursuit of fugitives and extradition of criminal suspects from abroad. The Case of Wong Ho Wing, a Chinese citizen in Fujian Province, is a typical case in this respect. In the judicial proceedings of the Inter-American Court of Human Rights, three Chinese experts, including the author of this book, attended the trial of the case as expert witnesses in support of the respondent, the Peruvian Government, and successfully refuted the plaintiff Wong Ho Wing's claim that he would face torture or the death penalty if he was extradited back to China. In June 2015, the court ruled that the plaintiff could be extradited back to China because he would not be faced with the risk of death penalty or torture.¹⁰ This ruling was an affirmation of the human rights and the rule of law condition in China by the Inter-American Court of Human Rights. The legal reasoning and conclusion of this case, as the first case on the state obligation under the extradition framework tried by the Inter-American Court of Human Rights, have significant implication for not only the Court and member states the Organization of American States, but also other international human rights judicial bodies, such as the European Court of Human Rights.¹¹

2. Rights of Detainees

In 2013, the Ministry of Public Security organized the amending of Construction Standards for Detention Houses, so as to adopt in an all-round way the standard of one bed for one inmate in newly built, renovated and expanded detention houses. The Ministry of Public Security worked together with the National Health and Family Planning Commission to specialize and socialize medical care for inmates in venues under public security supervision and establish medical records for detainees, with professional medical institutions in charge of daily medical and health care services. The systems of physical examination for detainees when they are taken into custody, regular body surface examinations for detainees and the notification of the rights and obligations of the detainees and emergency alarming procedures have been strictly implemented. The system of interrogation and remand of criminal suspects has also

¹⁰ The Official language of the judgment is Spanish. *Caso Wong Ho Wing vs. Peru*, Sentencia de 30 de Junio de 2015, Serie C No. 297, Corte Interamericana de Derechos Humanos, available on the website of the Inter-American Court of Human Rights, at http://www.corteidh.or.cr/docs/casos/articulos/seriec_297_esp.pdf, last visited on December 20, 2017.

¹¹ See Liu [13].

been strictly carried out. The systems of assessing detainees' security risk, psychological intervention and investigation, and handling of their complaints, as well as the system and working mechanism for inviting special supervisors to inspect the detention houses have been continually improved. Various regulations were formulated concerning detainees' right of the person and right to property, and their litigation rights in detention houses of public security organs. By June 2017, psychological counseling rooms had been widely established in detention centers in China; 2501 detention centers had two-way video calling services through the internet for detainees and prisoners, and more than 2400 detention centers across the country had set up legal aid workstations to provide legal assistance to detainees. As of 2016, all detention centers in the country had set up complaint-handling mechanisms for detainees, and 2489 detention centers had appointed special supervisors.

Through the working mechanism and system regarding the establishment of procurator mailboxes, detainees' requests to see resident procurators, meetings between resident procurators and detainees in detention houses and prisons, people's procuratorates are able to find out whether there were violations of the rights of detainees, such as corporal punishment, torture, insult and retaliation, and propose remedies and supervise prisons and detention houses for correction. From 2012 to 2016, procuratorial organs across the country recommended the release or changes in the compulsory measures in case of 12,552 criminal suspects who did not require further detention. In 2016, procuratorial organs at all levels urged the withdrawal of 10,661 cases that they considered should not have been filed by investigation organs, scrutinized and corrected 34,230 cases of investigation activities involving obtaining evidence in contravention of the law, and illegally applying compulsory measures, rejected the arrest of 132,081 suspects and the prosecution of 26,670 accused for acts that did not constitute a crime or where there was insufficient evidence, and filed 7185 criminal counter appeals against wrong judgment.

China has improved the system of execution of penalties and the institutions of community correction. By the end of June 2017, judicial administrative organs around the country had received a total of 3.436 million persons subject to community correction. Of these, 2.736 million had completed their correction, and 700,000 continued their community correction. A total of 2075 county and district community correction centers have been set up nationwide. Currently, there are 25,278 community service bases, 9373 education bases, 8272 employment bases and 687,000 community correction groups in China. The recidivism rate in the case of those assigned to community correction is 0.2%.

3. Right to a Fair Trial

To guarantee independent and impartial exercise of judicial and procuratorial powers in accordance with law, China has comprehensively implemented the judicial accountability reform, improved the system of classified management of judicial personnel, and carried out judge quota system reform in an all-round way, reduced the

number of judges from 198,800 to 120,000, and procurators from 158,000 to 86,000. Further progress has been made in the standardization, specialization and professionalization of judicial personnel. According to the principle that those who review a case pass judgment, and those who pass judgment are held accountable, judges and procurators are subject to life-long accountability for cases they handle during their service. Based on strict implementation of judicial accountability, a career security system in line with professional characteristics of judicial personnel has been established. The mechanism that guarantees performance of duty of judicial personnel in accordance with the law has been improved, clearly stipulating that judges and procurators are to be free from interference by administrative organs, social groups and individuals when handling cases in accordance with the law. Provincial-level courts and procuratorates have direct control over the staffing, finance and property of their subordinate courts and procuratorates, and circuit courts under the Supreme People's Court and trans-regional courts and procuratorates have been set up to handle trans-regional cases in a concentrated way. The judicial power enforcement mechanism, which explicitly differentiates power and responsibility, features effective supervision and regulation, and guarantees protection, continues to be improved.

The system of people's jurors and the system of people's supervisors have been improved through the promulgation and implementation of the Pilot Program to Reform the People's Jurors System and the Program for Furthering the Reform of the People's Supervisors System. In 2016, people's jurors participated in the trial of 3.066 million cases in the whole country. As of June 2017, over 21,000 people's supervisors had been appointed. From September 2014 to July 2017, 7491 cases handled by the procuratorates were supervised and appraised by people's supervisors. Of the 247 cases in which people's supervisors gave opinions at variance with the preliminary decisions of procuratorial organs, 76 cases, or about 30.8% of the total, were ruled in favor of the opinions of the people's supervisors.

People's rights and interests in litigation have been further guaranteed. People's courts have changed the case filing review system into a case filing register system to put every case on file and review every lawsuit, and fully safeguard the litigious rights of the parties concerned. Since the adoption of the case register system in May 2015, people's courts have registered and taken up on the spot more than 95% of the cases brought to them. By September 2017, over 39 million cases had been filed through registration. The Ministry of Public Security has released the Opinions on Reforming and Improving the System of Accepting and Filing Cases, stipulating that public security organs must accept cases within their jurisdiction reported by people or handed over by superior organs and other organs, and deal without any prevarication with accusations of crime and seizure and delivery of criminal suspects by citizens, and voluntary surrender of criminal suspects. By June 2017, public security organs at the provincial level had released opinions on carrying out reform of the case acceptance and filing system, and 18 provincial-level public security organs had set up case management departments to make case acceptance and filing more standardized, effective, convenient and transparent.

China has vigorously promoted judicial openness, which has become a highlight in the practice of law-based safeguarding of human rights in the country in recent

years. People's courts have built four major platforms for releasing information on judicial process, trials, written judgments and the execution of judgments. This is a huge achievement made by China, as a developing country, in utilizing the internet application technology to promote judicial openness. The platforms have enabled China to surpass many Western developed countries in the level of judicial openness. By October 16, 2017, China Judicial Process Information Online had released 833,000 items of information about cases and received 2.53 million visits. As of November 3, 2017, courts at all levels had broadcast 404,000 live trials online through Chinacourt.org, attracting more than 3 billion visits. A total of 3187 courts—90.43% of all courts in China—have access to Chinacourt.org. China Judgments Online was launched in July 2013. As of the end of February, 2018, it had released 26.8 million copies of written judgments and received more than 6.2 billion visits from more than 210 countries and regions. As such, it has become the most influential website of adjudicative documents in the world. As of September 30, 2017, China Law Enforcement Information Online had revealed the identities of 8.61 million dishonest persons subject to enforcement and 45.09 million pieces of information about these persons. People's procuratorates have established a case information disclosure system and four major platforms for information services concerning trial procedures, disclosure of legal documents, release of information on major cases and application for defense and legal representatives. In addition, full information was made available to the public on criminal cases involving the offering of bribes. Public hearing has been adopted in criminal litigation cases. China has released the Opinions on Further Opening Prison Affairs, creating new openness channels, expanding scope of release of information and releasing decisions in accordance with the law on commutation of sentences, petitions for parole, and execution of sentences outside prison.

Chinese courts have applied modern science and technology to promote fair trial. As a judicial innovation, China has established special internet courts in Hangzhou and other cities to adapt to the developing internet industry. The construction of "smart court" has been carried out in an all-round way in the whole court system, using such information network technologies as big data and cloud computing to standardize the management and statistical analysis of all types of trial information, to unify criteria for judgment, especially concerning evidence in criminal cases, to promote consistent rulings in similar cases, to prevent and correct miscarriages of justice and to ensure that all parties involved receive a fair trial. China has promoted "internet + litigation service" and launched convenient judicial services such as online filing, online mediation, remote court trial, electronic delivery and online public disclosure. China has also launched www.faxin.cn, a digital network service platform for the application of Chinese law, which aims to provide judges and lawyers with such services as legal document retrieval, professional solutions, and case analysis, to enhance the quality and efficiency of judgments, to make legal standards and judgment rules available to the general public.

The system of exclusion of illegally obtained evidence has been further improved. In 2013, the Supreme People's Procuratorate issued Proposals for Investigation and Supervision Departments to Investigate and Verify Illegal Behaviors during Criminal

Investigations (for Trial Implementation) and further improved the working mechanism for supervising against illegal behaviors during criminal investigations. The Supreme People's Court's judicial interpretation on the application of the Criminal Procedure Law also provides for specific rules on the scope of witnesses appearing in court, the scope of appraisers appearing in court, the protection of witnesses, and subsidies for providing testimonies. In a special chapter devoted to eliminating illegal evidence, it clearly stipulates the procedures for apply for excluding illegal evidence and procedures for the examination and investigation of the lawfulness of evidence collection. In 2013, the Supreme People's Court promulgated Regulations on Establishing a Sound Working Mechanism for Preventing Unjust, False or Erroneous Charges in Criminal Cases. According to the Regulations, in cases without sufficient evidence, defendants should be found not guilty; confessions extorted by torture or other illegal methods, not collected through interrogation in designated venues of case investigation, or collected without audio-visual recordings of the whole interrogation process, or those for which the possibility of being collected by illegal means could not be rule out shall all be excluded. Between 2012 and 2015, people's courts at various levels found 3369 suspects not guilty.

The right to defense of criminal suspects and defendants was safeguarded. In 2013, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Regulations on Legal Aid for Criminal Proceedings, according to which criminal suspects and defendants who could not afford to retain defenders may apply for legal aid. In particular cases, the public security organs, people's procuratorates and people's courts should notify legal aid agencies to designate lawyers for criminal suspects and defendants who do not retain defenders.

The practicing rights of lawyers have been safeguarded. In 2015, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of National Security and the Ministry of Justice jointly issued the Provisions on Protecting Lawyers' Practicing Rights in Accordance with Law, further detailing the rights of lawyers to know, apply, appeal, meet, review case files, collect evidence, question, cross-examine, debate and make defense, etc. Measures have been put in place to make it more convenient for lawyers to participate in litigations, and improve the mechanisms for relief and accountability aimed at protecting the rights of lawyers in practicing law. It is clearly stipulated that related institutions should in a timely manner stop, and handle in accordance with law, any insults, defamations, retaliations, and personal injuries received by lawyers while practicing law and offer protection if necessary. By March 2017, rights protection centers had been established in 31 provincial-level lawyers' associations and in most cities divided into districts, basically covering the whole country. By August 2017, there were more than 330,000 lawyers and over 26,000 law firms across the country. Every year, lawyers handle over 3.3 million lawsuits, more than one million non-litigation legal matters, take on over 500,000 cases of legal aid, offer public legal services in more than 2.3 million cases, and act as legal consultant for more than 500,000 entities.

A system of whole process simultaneous audio and video recording has been put in place. Between 2012 and 2015, 3512 people's courts nationwide were provided with full access to the internet and relevant data, and opened various services. More than 18,000 tribunals were equipped with the necessary technology to enable them to record each and every important case. 2160 long-distance inquiry systems were set up, making possible long-distance inquiries between upper and lower-level courts and between a court and a detention station. Procuratorial organs made it clear that people who handle job-related crimes would be held responsible for selectively practicing audio/video recording, or for deliberately shutting down the audio/video recording system in an attempt to prevent oversight. Audio and video recording equipment has been installed inside all interrogation rooms in case-handling areas of public security organs and detention houses, and the practice of audio and video recording in the interrogation of suspects has been started nationwide in accordance with the law.

Tighter checks have been placed on the application of the death penalty. In August 2015, nine crimes were removed from the list of crimes subject to the death penalty in the Amendment (IX) to the Criminal Law, thus reducing the number of capital crimes from the previous 55 to 46. In 2012, the Supreme People's Procuratorate established the Oversight Office on the Review of the Death Penalty, in an effort to strengthen legal supervision procedures on the review of the death penalty. Since 2012, the Supreme People's Court has issued 56 exemplary cases of guiding importance, with 3 of them involving circumstances of crime to which the death penalty was applicable. Second-instance trials of death penalty cases have all been conducted in open courts. More importance is given to listening to the opinions of defense lawyers in the course of reviewing death penalty cases. When a higher people's court reviews a death penalty case in which the defendant has not retained a defense lawyer, it is required to ask legal aid agencies to designate a lawyer for his defense.

The Administrative Procedure Law was revised to provide for a system whereby the head of an administrative organ being sued in administrative litigation appears and responds in court. The trial process and evidence rules of administrative cases have been improved further, and individuals and organizations that have been harmed by illegal administrative acts are provided with a strengthened guarantee of their right to secure judicial aid.

A state compensation system has been effectively implemented. In 2015, the Supreme People's Court and the Supreme People's Procuratorate jointly promulgated the Interpretations on Certain Issues Relating to Laws Applicable to Criminal Compensation Cases, which specified scenarios where criminal liability shall cease to be looked into. This further solves the problem of citizens being unable to apply for state compensation due to the procrastination and inconclusiveness of criminal cases. From 2013 to June 2017, courts at all levels heard 20,027 cases involving state compensation. Courts at all levels, including the Supreme People's Court, have set up legal aid committees. The total amount of aid provided by the central and local governments was RMB 2.47 billion in 2014, RMB 2.94 billion in 2015 and RMB 2.66 billion in 2016, benefiting more than 268,000 people.

4. Religious Freedom

The white paper *China's Policies and Practices on Protecting Freedom of Religious Belief*, issued by the Information Office of the State Council on April 3, 2018, shows that the freedom of religious belief of citizens is protected according to the Constitution and laws, normal religious needs of citizens who have religious beliefs are guaranteed according to law, and their customs are respected in China. The achievements made by China in safeguarding religious freedom include:

Conditions of places of worship have been notably improved. At present, there are about 144,000 places of worship registered for religious activities in China, among which are 33,500 Buddhist temples (including 28,000 Han Buddhist temples, 3800 Tibetan Buddhist lamaseries and 1700 Theravada Buddhist temples), 9000 Taoist temples, 35,000 Islamic mosques, 6000 Catholic churches and places of assembly spread across 98 dioceses, and 60,000 Protestant churches and places of assembly. Religious groups and places of worship follow the unified tax regulations of the State, pay taxes and enjoy tax breaks accordingly. The government ensures that places of worship have access to public services such as running water, electricity, gas, heating, roads, communications, broadcast facilities, televisions and medical services.

Religious texts and literature are published in accordance with law. Several large collections of religious classics, including Tripitaka, the Chinese Buddhist Canon, the Chinese Taoist Canon and a Collection of Editions and Commentaries for Laozi, have been compiled and published. Traditional sutra printing houses in Tibetan Buddhist temples have been well preserved and developed. There are now 60 such sutra printing houses, including the one in the Potala Palace, that can print 63,000 different sutras every year. Islamic classics, such as the Koran, have been translated and published in Chinese, Uygur, Kazakh and Kyrgyz languages. The publication and circulation of the New Collection of Al-Wa'z Speeches series and other reading materials and magazines have exceeded 1.76 million copies. China has printed over 160 million copies of the Bible in more than 100 different languages for over 100 countries and regions, including 80 million copies printed in the Chinese language, 11 ethnic minority languages and Braille for churches in China. A great many religious groups and places of worship have launched websites; and the Islamic Association of China has a website in both Chinese and Uygur languages.

The religious education system has been further improved. By September 2017, there are 91 religious schools in China whose establishment was approved by the State Administration of Religious Affairs (SARA), including 41 Buddhist, 10 Taoist, 10 Islamic, 9 Catholic and 21 Protestant schools. There are six national level religious colleges, namely the Buddhist Academy of China, High-level Tibetan Buddhism College of China, Chinese Taoist College, China Islamic Institute, National Seminary of the Catholic Church in China and Nanjing Union Theological Seminary. At present, more than 10,000 students study in these religious schools whose graduates total more than 47,000.

Social security for religious clerical personnel has been enhanced. The SARA and other relevant departments jointly issued the Directives on Solving the Social

Security Problem for Religious Clerical Personnel in 2010, and again the Notice on Further Solving the Social Security Problem for Religious Clerical Personnel in 2011, which brought clerical personnel into the social security system. At the end of 2013, 96.5% of clerical personnel were covered by medical insurance, 89.6% by the old-age insurance, and all qualified personnel by subsistence allowance welfare. Almost all clerical personnel were covered by the social security system in China.

The Chinese religious circle has formed friendly relations and conducted exchange activities with religious organizations from more than 80 countries. The Islamic Association of China organizes for Muslims to go on pilgrimage to Saudi Arabia every year, with the number of participants exceeding 10,000 a year since 2007.

5. Right to Know

The disclosure of government information has been further promoted. The State Council has implemented the Regulations on the Disclosure of Government Information. Emphasis has been put on the disclosure of information relating to administrative examination and approval, financial budgets and final accounts, government-subsidized housing, food and drug safety, land requisition and resettlement as well as information in other fields. Beautiful China-Action for Barrier-Free Access to Government Service in China was launched in 2013, under which 126 government service websites were revamped for barrier-free access. The mechanism for transparent government work has been fully pushed forward. The scope of service and responsibility of government personnel are publicized and information relating to the handling of matters is made known according to law.

The Provisions on the Disclosure of Government Information of the National Audit Office have been revised and improved. In 2015, the National Audit Office launched its government affairs account on WeChat, the China Audit newspaper digital APP and the China Audit Digital Publication Website. Between 2012 and 2015, the National Audit Office issued 124 notices on auditing results, held 50 news conferences, accepted more than 220 media interviews and conducted more than 30 live online press briefings and online interviews.

Between 2012 and 2015, the Information Office of the State Council organized 322 news conferences on the major meetings, major decisions and major work of the CPC and the Government. The CPC Central Committee, the State Council and local CPC committees and governments organized more than 9300 news conferences and news briefings.

Judicial openness has been continuously deepened. The Supreme People's Court established three major platforms for the disclosure of court proceedings, judgment documents and enforcement information. By the end of 2015, 14.48 million judgment documents and 34.347 million pieces of information concerning people subjected to enforcement had been released. In 2015, the China Law Court Live Broadcast Website offered live video streaming of 3795 court hearings. By the end of 2015, the system for the disclosure of information of cases dealt with by people's procuratorates

had released 2.54 million pieces of information concerning case procedures, 1.02 million pieces of information concerning major cases, and 760,000 effective legal documents. The Ministry of Public Security promulgated regulations, demanding the release to the general public and specially targeted people of the basis, progress of proceedings, results and other information about law enforcement. Public security organs at various levels have made efforts to facilitate the public in the handling of matters, search and supervision by opening online public security bureaus, online police stations, microblogs and by other means.

The system for transparency of enterprise and village affairs has been further implemented. By September 2015, among all enterprises and public institutions with trade unions, 4.931 million had established a separate system of making enterprise affairs public, and 4.106 million non-public sector enterprises had established a separate system of making enterprise affairs public, accounting for 93% of the total, far exceeding the targeted goal of 80%. More than 90% of the counties (cities and districts) nationwide have compiled a unified catalog of village affairs for disclosure, 91% of villages have put in place the system of disclosure of village affairs, and 92% of villages have set up committees for supervision over village affairs or other forms of bodies in overseeing village affairs.

6. Right to Participation

In accordance with the relevant stipulations of the Election Law amended in 2010, during elections of deputies to the people's congresses at various levels from 2011 to 2013, the principle that deputies are elected in the same proportion to the populations of urban and rural areas began to be implemented formally and in a comprehensive way, thus embodying the equality among all people, regions and ethnic groups.

The channels through which the public get involved in legislation have been widened. In 2015, the Legislation Law was revised to broaden the channels for citizens to participate in legislation in an orderly way, implement the system of legislation consultation and improve such systems as legislative debate, legislative hearing and openly soliciting opinions on draft laws. From March 2013 to December 2015, 140,753 people put forward more than 340,000 opinions on relevant draft laws. Each time the solicitation of opinions on draft laws is completed, the Standing Committee of the NPC will sort out and summarize the opinions and make prompt feedback to society on the opinions solicited. From 2012 to 2015, through the Chinese Government Legal Information Website, 64 laws and administrative regulations were offered up for public comment with more than 283,000 opinions collected, and 465 departmental rules opened for public comments with more than 89,000 opinions gathered. In March 2016, based on opinions collected from all sides, the NPC deliberated on and adopted the Charity Law, which protects the legitimate interests of participants in charitable activities.

The right of members of non-Communist parties and personages without party affiliation to make comments, raise proposals and deliver reports on social conditions

and public opinions at various meetings of the Chinese People's Political Consultative Conference (CPPCC) has been respected and guaranteed. From 2012 to 2015, various non-Communist parties and the All-China Federation of Industry and Commerce put forth a total of 1461 proposals and 11,998 reports on social conditions and public opinions.

Mass organizations and social groups take an active part in public management. Trade unions involved themselves in the study of the revising of the Regulations on Labor Security Supervision. Since 2012, trade unions at all levels have performed their duty in supervising the implementation of labor law and carried out the work of exposure of typical cases of major violations of labor law. By 2015, trade unions throughout the country had established up to 960,000 labor law supervision organizations, with a total of nearly 2.13 million supervisors. The Communist Youth League of China, the All-China Women's Federation and other mass organizations have also conveyed their requests through multiple channels.

The system of trade union organizations and workers' congresses has been constantly improved. The All-China Federation of Trade Unions issued the Opinions on Strengthening the Construction of Grassroots Trade Unions under New Situations and the Plan of Work on the Construction of Grassroots Organizations (2014–2018) to expand the effective coverage of trade unions. By the end of September 2015, about 13 million workers who migrated from rural to urban areas for employment had been newly adopted as members of trade unions. Relevant departments have formulated the (Interim) Measures for the Implementation of the Workers' Congress System in State-owned Cultural Enterprises and Institutions. By the end of September 2015, among all the enterprises and public institutions with trade unions throughout the country, 5.059 million had established a separate system of workers' congresses; regional (industrial) workers' congresses had covered 1.873 million enterprises, and 4.207 million non-state-owned enterprises had established a separate system of workers' congresses, accounting for 94.6% of the total, exceeding the projected target of 80%.

The system of people's self-governance at grassroots level has been further improved. The Ministry of Civil Affairs has formulated the Regulations on and Procedures of the Election of Village Committees, and more than 98% of village committees are directly elected according to law. The systems of conferences of villagers (residents), conferences of deputies of villagers (residents), consultative conferences of villagers (residents), etc., have been implemented to guarantee the participation by the masses in the management and decision making of public affairs at the grassroots level. Relevant departments have formulated the Opinions on the Enhancement of Consultation in Urban and Rural Communities to refine the system of democratic consultation at the grassroots level.

Social organizations have become an important channel through which the masses of people take part in social management and public service. Their structures have been continuously optimized and their quality has been steadily improved. By the end of 2015, the number of social groups registered nationwide according to law had reached about 660,000, an increase of 32.3% over the corresponding period of 2012. Social groups of various types nationwide had generated incomes of around 260 billion yuan, providing various kinds of employment to about 8.5 million people,

and accepted donations of approximately 90 billion yuan. Direct registration for professional associations of such types as commerce, science and technology, charity, urban and rural community service has been explored and practiced. The delinking between chambers of commerce and administrative organs has been activated. The strengths of and the role played by charitable social groups in poverty and disaster relief and response to various emergencies have been fully utilized. Privately-run non-profit schools, hospitals and homes for the aged and other social service facilities have been actively nurtured and developed to meet the increasing demands of the people for diversified public services. Governments have been encouraged to transfer its functions to and purchase services from social groups. Consultation between social groups, especially grassroots social groups in urban and rural areas, has been explored.

7. Right of Expression

The construction of consultative democracy has been pushed forward. In 2013, the CPPCC initiated Bi-weekly Consultative Forums, which focus on specific topics, take advantage of the inclusiveness of the National Committee, rely on special committees and take the form of discussion meetings, and are held about 20 times a year. The CPPCC also holds consultations on specific issues, consultations with representatives of specific sectors of society, consultations with Party and government departments and consultations on the handling of proposals.

Internet information platforms have enriched channels through which citizens can have their voices heard. By the end of 2015, China's online population had reached 688 million and the internet penetration rate had reached 50.3%. Netizens make remarks and comments through online news commentaries, forums, blogs, microblogs, WeChat accounts and other Internet platforms, putting forward criticisms and suggestions on the work of governments at various levels and exercise supervision over the conducts of civil servants.

The channels for people to make complaints in the form of letters and visits have been continuously broadened. Letters and visits and other traditional channels for citizens to express their demands have been optimized. Efforts have been made to make sure that complaints can reach officials through their letter boxes and short messages or through video links. A system has been put in place to collect suggestions from the public. The operational mechanism of the nationwide complaint system has been improved, with the process of reception and handling of complaints open to the public and subject to citizens' comments and social supervision. Interconnection and interworking have been realized between complaint systems of all provinces of China and 30 ministries and ministerial-level commissions, and online complaint making has gradually become the main channel for citizens to make their demands.

The right of expression of workers in enterprises and public institutions are guaranteed. Relevant departments jointly adopted the Regulations on Democratic Management of Enterprises, according to which the formulation and revision of labor rules

and regulations of enterprises, major decisions about the operation and management of enterprises, and important matters concerning the immediate interests of workers must be submitted to workers' congresses for deliberation. During the adjournment of workers' congresses, workers' demands are promptly conveyed through joint meetings of leaders of workers' delegations, workers' democratic management committees, talks between labor and capital and other channels.

The former State Administration of Press, Publication, Radio, Film and Television had implemented the Measures for the Administration of Press Cards and the Measures for the Administration of Correspondent Bureaus of Newspapers and Periodicals to protect the legitimate rights of news media and their branches and reporters to interview and supervise by public opinion.

8. Right of Supervision

The NPC and its Standing Committee have continuously strengthened their supervision work. In 2015, the Legislation Law was revised to strengthen the system of recordation and review of laws, regulations and normative documents. The revised law clearly provides for the system of review by relevant specialized committees and the operating divisions of the NPC Standing Committee on their own initiatives of normative documents submitted for recordation, the system of providing feedback to applicants for review and the system of openness to society. From 2012 to 2015, the NPC Standing Committee held 12 special consultations, carried out 15 special investigations and surveys and conducted inspections on the enforcement of 17 laws. In 2014, the General Office of the NPC Standing Committee formulated the Opinions on the Improvement of the Work of Special Consultations, which list reports and bills that involve reform of high difficulty, reflect numerous problems, draw high degrees of public attention, and concern the immediate interests of the general public as topics of special consultation and organically combine the three forms of supervision, namely law enforcement inspection, report hearing and special consultation. In 2015, the NPC Standing Committee carried out inspections on the enforcement of 6 laws, including the Law on Vocational Education, the Law on the Protection of Rights and Interests of Consumers and the Law on the Prevention and Treatment of Water Pollution.

The CPPCC has actively explored ways to improve the system of democratic supervision. In 2015, it launched several supervisory investigations and surveys, especially concerning the treatment of pollution of the Tengger Desert, reform of the system of investment examination and approval and other significant matters, putting forth criticisms and suggestions in relation to the problems that had emerged in the implementation of decisions.

Supervision over regulations and normative documents has been strengthened. By the end of 2015, relevant departments had by official order nullified 35 pieces of rules and regulations, comprehensively amended 24, and partially amended 182. Between June 2012 and June 2014, they dealt with 81 pieces of rules and regulations on

administrative licensing, administrative compulsion and administrative punishment that had been adopted and implemented in violation of law. They especially conducted concentrated review of and supervised and urged amendments to those departmental rules and regulations related to items of administrative examination and approval that had been canceled or delegated by the State Council.

The systems of administrative accountability, administrative review and administrative proceedings have been further improved. From 2012 to 2014, administrative review organs at various levels accepted about 340,000 applications for administrative reconsideration and concluded 320,000 cases, or 94% of the total. The Supreme People's Court promulgated the Guiding Opinions on People's Courts Exercising Trans-Administrative Regional and Centralized Jurisdiction of Administrative Cases to promote relevant institutional reforms. By the end of 2015, trans-administrative regional people's courts, including the No. 4 Intermediate People's Court of Beijing Municipality and the No. 3 Intermediate People's Court of Shanghai Municipality, had been set up.

Social supervision has been strengthened. The Supreme People's Procuratorate and the Ministry of Justice have jointly issued the Plan for the Deepening the Reform of the People's Supervisor System. By the end of 2015, more than 15,000 people's supervisors had been recruited and 3786 special procurators had been appointed. People's supervisors oversaw 7974 cases of job-related crimes which procuratorial organs either "proposed to dismiss" or "proposed not to proceed with charges". People's supervisors raised opinions of disagreement to the proposed decisions made by procuratorial organs in 212 cases, put forth 992 suggestions for the correction of some problems that occurred in the course of handling of job-related crimes by procuratorial organs, and made 156 suggestions on procuratorial work and the construction of the procuratorial team. The supervisory role of the internet has been fully utilized. In recent years, the discipline inspection and supervision organs of the CPC Central Committee, the Supreme People's Court, the Supreme People's Procuratorate and others have opened crime-reporting websites and a large number of problems that were raised on the Internet have been resolved. The websites are playing an important role in preventing and penalizing embezzlement and corruption.

9. Anti-corruption

In recent years, China has made unprecedented efforts and achievements in the fight against corruption. The CPC and the Chinese Government have adhered to the principle that no place is out of bounds, no ground is left unturned, and no tolerance is shown in the fight against corruption, and taken firm actions to "take out tigers (corrupt high-ranking officials)", "swat flies" (corrupt government officials at the grassroots level), and "hunt down foxes" (corrupt officials that have fled to foreign countries). The goal of creating a deterrent against corruption has been initially attained; the cage of institutions that prevents corruption has been strengthened; and

moral defenses against corruption are in the making. The anti-corruption campaign has built into a crushing tide and is being consolidated and developed.

Corruption sabotages democracy and the rule of law, seriously affects the healthy and sustainable development of the state and society and directly threatens the realization of almost all human rights of citizens.

Since the Eighteenth National Congress of the CPC, China has made unprecedented efforts in the anti-corruption work. From the human rights perspective, the fight against corruption is first of all aimed at eliminating violations of human rights and creating a positive political and social environment conducive to the promotion and safeguarding of human rights. Secondly, the fight against corruption must be carried out on the track of the rule of law. Cases of corruption must be dealt with in accordance with law. Party discipline must be stricter than state law and state law must be strictly enforced. With respect to persons charged or convicted of the crime of corruption, their various human rights, including the right to fair trial, must be respected in all links of judicial proceedings.

The Supervision Law, adopted at the 1st Session of the Standing Committee of the Thirteenth NPC on March 20, 2018, opened a new chapter in ruling the country by law in an all-round way and in fighting against corruption in China. The adoption of the Supervision Law, as a state law against corruption, has a major and profound influence on the construction of a centralized, unified, authoritative and efficient national supervision system with Chinese characteristics and provides strong rule of law safeguard for the creation of a new situation and the achievement of new results in the fight against corruption in China.

As a basic law on the supervision work, it provides for the guiding ideology and leadership system of the supervision work and stresses “the adherence to the leadership of the CPC over the national supervision work”, clarifies the principles and policies of the supervision work, stressing that: “The supervision work of the state shall strictly comply with the Constitution and laws, take facts as the basis and laws as the criterion”. It clearly provides for the nature, the creation and the functions of supervision organs: “Supervisory commissions at all levels are the specialized organs responsible for exercising state supervisory functions”, “the National Supervisory Commission is created by the NPC”, “Supervisory commissions at various local levels are created by the people’s congresses at the corresponding level” and “a supervisory commission shall, in accordance with the provisions of this Law and relevant laws, perform the duties of supervision, investigation and disposition”. The Law clearly brings all public officials exercising public power into the scope of supervision, covering such groups of people as “personnel engaged in management in public entities in education, scientific research, culture, health care, and sports, among others”, and “personnel engaged in management at basic-level self-governing mass organizations”, thereby expanding the scope of supervision from “the government in the narrow sense” to “the government in the broad sense” and confining the exercise of public power to an institutional cage. To ensure the effective performance of their functions, supervision organs are empowered by the Law to take such measures as holding talk, interrogating, questioning, making inquiries, searching, freezing, seizing and impounding properties, inquisition and inspection, identification, and

detention. Meanwhile, the Law also contains strict provisions on the procedures of supervision, investigation and disposition work, including: the handling of case reports or tip-offs, the management and disposition of clues, the decision on case docketing and investigation, searching, seizing and impounding. It requires the audio-video recording of the entire process of interrogation and important evidence-taking work; strictly regulates the disposition of case-related properties, and especially contains clear provisions on the conditions and procedures of detention, and the protection of the lawful rights and interests of persons under investigation. The Law also includes special chapters that contain a series of detailed provisions on the supervision over the work of supervisory commissions by people's congresses, the self-regulation of supervisory organs, the mechanisms for the cooperation and mutual restraint between supervisory organs, trial organs, procuratorial organs and law enforcement organs, and the legal liabilities of supervisory organs and their staff members.

The CPC has, through the revision of the codes about clean conduct, and regulations on disciplinary punishment, accountability, intraparty scrutiny and inspection tours, created a framework for systematically preventing and combating corruption. The white paper *New Progress in the Legal Protection of Human Rights in China*, issued by the Information Office of the State Council on December 2017, shows that, since the 18th CPC National Congress, the CPC Central Commission for Discipline Inspection has investigated more than 440 Party-member officials at or above the provincial level and other officials registered at and supervised by the CPC Central Committee. Commissions for discipline inspection and departments of supervision around the country have dealt with 1,537,000 government officials, including 8900 at bureau level and 63,000 at county level, and 58,000 cases of suspected criminal activity have been transferred to the judiciary. This strong enforcement work has acted as a powerful deterrent. In 2016, 57,000 Party-member officials took the initiative to confess their violations of Party discipline. From the beginning of 2014 to August 2017, more than 6100 Party committees or Party leadership groups, general branches and branches, more than 300 discipline inspection commissions or teams, and more than 60,000 Party-member officials were held accountable for violations of Party disciplines throughout the country. The Central Commission for Discipline Inspection has organized 12 rounds of inspection tours, including inspection of Party organizations in 277 local governments, departments and entities, "return inspections" of 16 provinces, autonomous regions and municipalities directly under the central government, and "flexible inspections" of four entities. For the first time in its history, the CPC achieved full coverage of central inspection tours during a single term of office of central leadership. The Central Commission for Discipline Inspection set up 47 dispatched resident teams, covering all the 139 central-level departments of the Party and the government. According to a 2016 survey carried out by the National Bureau of Statistics, the CPC's effort to improve Party conduct, uphold integrity, and combat corruption saw the index of public satisfaction with this initiative rise from 81% in 2013 to 92.9% in 2016. The fight against corruption creates a good social environment and solid foundation for the safeguarding of human rights and the development of the human rights cause in China.

China is, on the whole, still a development country at the primary stage of socialism. While trying hard to seize historical opportunity of development, it must also face up to all kinds of serious challenges. In the Report to the 19th National Congress of CPC, Party General Secretary Xi Jinping pointed out that: “we must be clearly aware that there are still many inadequacies in our work and many difficulties and challenges to face”, “some prominent problems caused by unbalanced and inadequate development await solutions”, “the level of civic-mindedness needs further improvement. Social tensions and problems are intertwined, much remains to be done in ensuring that the country’s governance is based on law, and China’s governance system and capacity need to be further strengthened”, and “some reform plans and major policies and measures need to be better implemented”. The challenges and difficulties encountered by China in safeguarding civil and political rights are closely related to the above-mentioned issues of overall importance. China needs to further improve the conditions and raise the level of protection of civil and political rights in the process of overcoming these difficulties and meeting these challenges.

In conclusion, the socialist system with Chinese characteristics has been further improved, notable progresses have been made in state governance system and capacity, and development has been full of vitality and driven by greater creativity throughout society in China in recent years. China is actively developing socialist democracy, advancing the rule of law in an all-round way, and comprehensively strengthening the institutional building to make integrated advances in Party leadership, the running of the country by the people, and law-based governance. Further progresses have been made in scientific lawmaking, strict law enforcement, impartial administration of justice, and the observance of law by everyone; efforts to build a country, government, and society based on the rule of law have been mutually reinforcing; the system of distinctively Chinese socialist rule of law has been steadily improved; public awareness of the rule of law has enhanced markedly; and breakthroughs have been made in the reform of the national supervision system, the system of government administration and the judicial system, and the systems of checking and supervising over the exercise of power. Against this background, the safeguarding of civil and political rights in China will be effectively strengthened.

References

1. Rosas, A. (1990). Democracy and human rights. In A. Rosas and J. Helgesen (eds.), *Human rights in a changing east-west perspective* (p. 17).
2. Bai, G. (1991). On the new generation of human rights. *Chinese Journal of Law*, 5.
3. Gamble, J. K., Bailey, T. A., Hawk, J. S., & McCurdy, E. E. (2001). Human rights treaty: A suggested typology, an historical perspective. *Buffalo Human Rights Law Review*, 33, ff.
4. Xu, F. (2005). China will ratify the international covenant on civil and political rights. In *Southern Weekend*, September 22, 2005. Available at: <http://news.sina.com.cn/c/2005-09-22/11337836499.shtml>. Last visited February 22, 2018.
5. Chen, Z. (Ed.). (2011). *The ratification and implementation of the international covenant on civil and political rights*. China Social Sciences Press.
6. Sun, S. (2012). *Obligations of state parties to ICCPR*. Social Sciences Academic Press.

7. Yang, Y. (2003). Human rights law. In *Studies in ICCPR*. Chinese People's Public Security University Press.
8. Peng, X. (2001). *Studies in the international supervision system under ICCPR*. Jilin People's Publishing House.
9. Zhu, X., & Liu, H. (2003). *ICCPR and its implementation mechanisms*. China Social Sciences Press.
10. Nowak, M. (2008). *ICCPR commentary* (S. Sun and X. Bi (Trans.)). Beijing: SDX Publishing Co.
11. Nowak, M. (2003). *Introduction to the international human rights regime* (p. 261). Martinus Nijhoff Publishers.
12. Liu, H. (2016). Law encourages NGOs to play useful role. In *China Daily*, May 5, 2016 (p. 9).
13. Liu, H. (2016). The first extradition case in Inter-American Court of Human Rights and its significance. *Journal of Southeast University (Philosophy and Social Science)*, 6.



We cannot talk about human rights without mentioning women's rights. The improvement of gender awareness is an indisputable fact in modern society. However, this improvement does not have a long history and there is still much to be done in this respect.

According to the data issued by the National Bureau of Statistics, the male and female populations in China were 711.37 million and 678.71 million, respectively, and the sex ratio (men to women) of the total population was 104.81 in 2017.¹ The absolute number of women in China is huge, consisting of about one fifth of the total female population in the world. Between 2000 and 2016, the female population in China increased from 613 to 675 million, with a compound growth rate of 0.6%. According to the data published by United Nations Conference on Trade and Development, the female workforce in China had also been continuously growing, from 218 million in 1980 to 364 million in 2016, with a compound growth rate of 1.43%. The data published in China Statistical Yearbook in 2016 shows that the percentage of women with undergraduate education in the Chinese population had grown from 0.88% in 2000 to 5.76% in 2015, with an increase of close to six times. As far as educational level is concerned, there was no big difference between the proportions of men and women with junior college, undergraduate and graduate educations in the population in 2015. Social and economic development and the popularization of the idea of gender equality have raised the educational level of

¹ The National Bureau of Statistics, "There Were 32.66 Million More Men than Women in the Whole Country in 2017", <http://news.sina.com.cn/c/2018-01-18/doc-ifyquixe3840054.shtml>, last visited January 20, 2018.

women and improved their overall occupational status.² The above statistics show in a nutshell the situation of women's population in China in recent years.

The Chinese Government has always attached importance to the protection of women's rights. The first law adopted after the establishment of the PRC was the Marriage Law, which was promulgated by the Central People's Government on May 1, 1950. Ms. Song Xiuyan, the former chairwoman of All-China Women's Federation, spoke highly of this law: It fundamentally negated the feudal marriage system that had lasted for thousands of years in China, liberated women from the bondages of despotic patriarchal authority and the authority of the husband and, for the first time in Chinese history, granted them the qualification as human beings equal to men. The implementation of this law enabled women to have fundamental human rights and freedom and opened the first page of the construction of democracy and the rule of law in China.³

"Women hold up half the sky" has been a well-known slogan in China since the establishment of the PRC. The CPC and the Chinese Government have always attached importance to the liberation of women and the safeguarding of women's rights.

Women's Rights as Human Rights

Literally, it is not difficult to understand the statement "women's rights are human rights." Historically, however, this judgment has been hard-won. The development of the international women's movement was something to write home about in the twentieth century because it initiated the emancipation of women and the social process of gender equality. And the rise of international human rights law also has had a profound impact on international law and international women's movement. Historically, the rise of women's rights movement and that of international human rights movement was not synchronized. The two have undergone a process of gradual integration.

From the perspective of international law, John Humphrey, the first Director of the United Nations Human Rights Division, held that, as a result of the development of international human rights law, international law "is becoming not only new in content, but also its very character and structure is changing. Once purely horizontal in character because it governed only the relations of states, it has become vertical for it now reaches down to individual men and women. When a hundred years from now, historians write about international law in the twentieth century, they will say that these developments were the most important and the most radical in the history of the

² For information about the population of women and its proportion in the total population, proportions of different age groups of women in the total population, the total number of women in the workforce, and the proportions of women of various education levels in the total population, see China Industry Information Network, at: <http://www.chyxx.com/industry/201710/576980.html>, last visited January 20, 2018.

³ Song [1].

order.”⁴ Gender mainstreaming has gradually become the new goal and new frontier of international women's movement after the 1980s, whereas the mainstreaming of human rights is a new slogan put forward by the international community after the end of the Cold War. The two have formed a relationship of integration, mutual promotion and mutual supplementation with each other.

In a discussion about the discrimination against women, the Office of the High Commissioner for Human Right pointed out that: “Equality is the cornerstone of every democratic society which aspires to social justice and human rights. In virtually all societies and spheres of activity women are subject to inequalities in law and in fact. This situation is both caused and exacerbated by the existence of discrimination in the family, in the community and in the workplace. While causes and consequences may vary from country to country, discrimination against women is widespread. It is perpetuated by survival of stereotypes and of traditional cultural and religious practices and beliefs detrimental to women.”⁵ This is the background of our current discussion of women's rights.

It was exactly for this reason that the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, clearly points out that: “The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.”⁶

Gender equality was incorporated into international law and became an important content of early international human rights law. At the early stage of capitalism, the unrestrained exploitation and oppression by capitalists had led to the increasing deterioration of the working and living conditions of the working class and serious social problems. As a result, international labor protection was put on the agenda. In 1889, the Second International adopted at its Paris Congress a resolution on international labor protection legislation, which put forward such basic principles of international labor protection as eight hour day system, prohibition of child labor, protection of female workers and freedom of association. Promoted by the International Association for Labor Legislation, a semi-governmental international organization established in 1900, some major capitalist countries concluded the Convention Prohibiting the Use of White Phosphorus in the Manufacture of Matches and the Convention Prohibiting Night Work for Women—the two earliest international conventions on labor protection, in Bern, Switzerland in 1906. The International Labor Organization, established in 1919, provides for the general principles of the organization in its Constitution, including abolition of child labor, equal pay for equal work for men and women. It also provides that each country should enable women to participate in

⁴ Humphrey [2].

⁵ Office of the High Commissioner for Human Right [3].

⁶ A/CONF.157/24. Doc. No. A/CONF.157/24, adopted by the World Conference on Human Rights on June 25, 1993.

the formulation of laws and regulations on the protection of labor rights. These principles were reiterated in the 1944 Philadelphia Declaration and incorporated into the 1946 ILO Constitution. The gender equality issues during this period of time were limited to certain aspects of labor rights and relatively scattered.

After the World War II, the United Nations was established to save the future generations from the scourge of war that had brought untold sorrow to mankind and to jointly safeguard peace and security. As a result, human rights had been brought into international perspective, and the protection of human rights has been internationalized.

The 1945 UN Charter points out in its Preamble that its member states “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” and “promote social progress and better standards of life in larger freedom.” The Charter provides in Article 1 that one of the purposes of the UN is “to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” and in Article 55 that the UN shall promote “the universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” To achieve these purposes, Article 56 of the Charter requires member states to “pledge themselves to take joint and separate action in co-operation with the Organization.”

Women's issue has always been a focus of UN in the social and development field. In the year after the establishment of the UN, the Commission on the Status of Women was set up under the UN Economic and Social Council to carry out studies on urgent issues relating to and formulating measures promoting women's rights. The mandate of the Commission was first expanded in 1987. After 1995, it has become the main body monitoring and reviewing progresses and problems in the implementation of the Beijing Declaration and Platform for Action. During the period when the Commission is not in session, its routine work is carried out by United Nations Division for the Advancement of Women. On July 2, 2010, the 64th UN General Assembly unanimously decided to establish a new entity—UN-Women (the United Nations Entity for Gender Equality and the Empowerment of Women), so as to enhance the role of the UN in the advancement of women and provide member states with more coordinated, timely and feasible support. This new entity merges and builds on the important work of four previously distinct parts of the UN system, which focused exclusively on gender equality and women's empowerment: Division for the Advancement of Women (DAW), International Research and Training Institute for the Advancement of Women (INSTRAW), Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) and United Nations Development Fund for Women (UNIFEM).

The UN and its specialized bodies have adopted a series of specialized conventions to promote the realization of gender equality by its member states in specific fields. These conventions include the Convention on the Political Rights of Women, adopted in 1952 and came into effect in 1954; the Convention on the Nationality of Married

Women, adopted in 1957 and came into effect in 1958; Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted in 1962 and came into effect in 1964; ILO Convention No. 100 (Equal Remuneration Convention), adopted in 1951 and became effective in 1953; and ILO Convention No. 111 Discrimination (Employment and Occupation) Convention, adopted in 1958 and came into force in 1960.

It is especially worth noting that the provisions of the International Bill of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women have a great influence in international human rights law.

The International Bill of Human Rights consists of the 1948 UN Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). UDHR stresses in Article 2 that everyone is entitled to all the rights and freedoms set forth in the Declaration regardless of his or her sex. To stress the importance of gender equality, the two 1966 "international human rights covenants", apart from prohibiting discrimination based on sex in Article 2 (the non-discrimination article), both contain a special article on gender equality, namely Article 3, which provides that: "the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all rights set forth in the present Covenant."

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations General Assembly (Resolution No. 34/180) on December 18, 1979, and came into force on September 3, 1981, marked a peak in the international legislation in the field of gender equality. It contains detailed provisions on the equal rights of women in every field of social life. The treaty body of CEDAW, the Committee on the Elimination of Discrimination against Women, apart from the consideration of state party reports on the implementation of the Convention, also performs the function of receiving and considering communications under the protocol to CEDAW.

CEDAW is based on the 1967 UN Declaration on the Elimination of Discrimination against Women, which is not legally binding under international law. To give legal binding force to the principles set forth in the Declaration, the UN Commission on the Status of Women drafted CEDAW by taking the Declaration and other relevant conventions as reference. The first draft of the Convention was completed in 1974. After repeated discussion and revision by governments, relevant international organizations the UN Social and Economic Council and the Third Committee, the final draft was adopted by overwhelming majority vote at the Third Committee and the General Assembly. Apart from the integrity of its content system, the Convention also reflects the breakthroughs made by the feminism at that time from the stereotyped gender roles. People had realized that gender inequality is no longer limited to the public domain that women should also be treated equally with men in the domains of personal, family and social life and that women can have larger scope of development only by adjusting their traditional role. The Convention denounces the traditional idea of gender division of labor, advocates the change of the stereotyped roles of men and women in society and family, so as to achieve full gender

equality. The convention is also the first human rights convention in international law to confirm women's reproductive rights.

In the 1970s, with the international women's movement gaining new momentum, the year 1975 was designated by the UN as the International Women's Year. The UN held the first intergovernmental world conference especially devoted to the discussion of women's issues since its establishment, namely the World Conference for the International Women's Year, in Mexico City on June 19–July 2, 1975. The conference was attended by over 1,000 representatives from 133 countries and various UN specialized agencies and relevant organizations, of which 70% were women. A Chinese delegation headed by Ms. Li Suwen, the then vice chairperson of the Standing Committee of the National People's Congress, attended the conference. One of the important achievements of the conference was the adoption of the Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace (the Mexico Declaration) and The World Plan of Action for the Implementation of the Objectives of the International Women's Year (the World Plan of Action). The Mexico Declaration defines the equality between women and men as equality in their dignity and worth as human beings as well as equality in their rights, opportunities and responsibilities.

The Second World Women's Conference, namely Mid-Decade World Conference of the United Nations Decade for Women, was held in Copenhagen on July 14–31, 1980, and attended by over 2000 representatives from 145 countries as well as the relevant UN organizations and specialized agencies. The Action Plan adopted at the conference calls on states to take effective measures to ensure women's ownership and control of property and to improve women's rights with respect to inheritance, child custody and loss of nationality. A Chinese delegation, headed by Ms. Kang Keqing, the then vice chair of the Chinese People's Political Consultative Conference and chairwoman of All-China Federation of Women's Associations, attended the conference. A ceremony for the signing of CEDAW was held at the conference, and Ms. Kang Keqing signed the convention on behalf of the Chinese Government.

The Third World Conference on Women, namely the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, was held in Nairobi on July 13–26, 1985. A Chinese delegation headed by Ms. Chen Muhua, a state councilor at that time, attended the conference. The conference, held at a time when the gender equality movement had finally gained genuine global recognition, was attended by 15,000 representatives of NGOs, and NGO forums were organized parallel to the conference. This event is described by many people as "the birth of global feminism." Considering the fact that the objectives of the Mexico Conference had not been fully realized, the 157 governments represented at the conference adopted the Nairobi Forward-Looking Strategies for the Advancement of Women to the Year 2000, which, for the first time in history, declares that all problems are women's problems.

The Fourth World Conference on Women, which took "Action for Equality, Development and Peace" as its theme, was held in Beijing on September 4–15, 1995. It was attended by over 15,000 representatives from 189 countries and various organizations and specialized agencies of the UN, intergovernmental organizations and

NGOs, including a Chinese delegation headed by Ms. Chen Muhua, the then vice chair of the Standing Committee of the National People's Congress and chairwoman of All-China Federation of Women's Associations. The conference formulated and adopted the Beijing Declaration and the Platform for Action aimed at speeding up the implementation of the Nairobi Strategies, pointed out the main obstacles to advancement women around the world and formulated the strategic objectives to be achieved and concrete actions to be taken in the future. It went a step further than the Nairobi Conference by asserting in the Beijing Platform for Action women's rights as human rights and committing to specific actions to ensure respect for those rights. The UN-Women, in the review of the Fourth Conference on Women, appropriately commented that: "The fundamental transformation that took place in Beijing was the recognition of the need to shift the focus from women to the concept of gender, recognizing that the entire structure of society, and all relations between men and women within it, had to be re-evaluated. Only by such a fundamental restructuring of society and its institutions could women be fully empowered to take their rightful place as equal partners with men in all aspects of life. This change represented a strong reaffirmation that women's rights were human rights and that gender equality was an issue of universal concern, benefiting all."⁷

After the adoption of the United Nations Millennium Declaration at the Millennium Summit in September 2000, gender issues have been incorporated into many millennium development goals—especially Goal No. 3, which provides for "the promotion of gender equality and empowerment of women", and goal No. 5, which provides for "reducing the maternal mortality rate by three quarters." The whole UN system has been mobilized to achieve these goals.

The 2030 Agenda for Sustainable Development, adopted by UN General Assembly on September 25, 2015, contains a separate goal of realizing gender equality and the empowerment of women and girls, as well as many provisions on the empowerment of women in other goals. Ms. Mlambo-Ngcuka, Executive Director of UN-Women, pointed out that more participation by women is one of the necessary conditions for the realization of this new agenda.⁸

In a speech given on the occasion of the International Women's Day on March 8, 2018, United Nations Secretary-General António Guterres reiterated that the empowerment of women and girls is at the heart of the 2030 Agenda for sustainable development and warned that "Gender inequality, discrimination and violence against women harm us all." He pointed out that, since the first International Women's Day in 1976, there were more girls in school, more women doing paid work, and harmful practices like female genital mutilation and child marriage were in decline. But women were still faced with challenges brought about by gender inequality: Over one billion women in the world still lack legal protection against domestic violence;

⁷ Quoted in UN-Women, <http://www.un.org/zh/globalissues/women/index.shtml>, last visited January 20, 2018.

⁸ "United Nations: Women's Participation Crucial to the Realization of Agenda for Sustainable Development", *Xinhua News Network*, at http://www.xinhuanet.com/world/2016-03/04/c_1118235111.htm, last visited January 20, 2018.

sexual harassment and sexual assault are a long-existing phenomenon in some work places, public places, even some private houses; the global gender income gap was 23%, and the percentage was as high as 40% in rural areas; and some women were still engaged in unpaid work, and their work was not recognized.⁹

Soon after the adoption of the 2030 Agenda for Sustainable Development, the Chinese Government and the UN co-hosted the Global Summit of Women on September 27, 2015. The Chinese President Xi Jinping attended and presided over the summit at the UN Headquarters in New York. At the opening ceremony of the Summit, he delivered an important speech entitled “Promoting Women’s All-round Development and Building a Better World for All”, in which he expounded China’s propositions on strengthening international cooperation and advancing women’s cause around the globe.¹⁰

Xi put forward a four-point proposal on promoting gender equality and the all-round development of women: first, promoting women’s development in tandem with social and economic progress, adopting better and more-rounded development strategies that take into account national realities, gender differences and the special needs of women, ensuring women’s equal share in the fruits of development and encouraging women’s participation in the process of social and economic development. Second, actively safeguarding women’s rights and interests, systematically incorporating women’s rights and interests into laws and administrative regulations, enhancing women’s capacity for participation in political and economic life, guaranteeing basic medical services for women, ensuring that school is affordable and safe for every girl and developing vocational and life-long education for women. Third, striving to build harmonious and inclusive societies, eradicating all forms of violence against women and discarding outdated mentalities and customs inhibiting women’s development. And fourth, fostering a global environment favorable to women’s development, adhering to the idea of peaceful development and win-win cooperation, actively upholding peace, carrying out women-related international cooperation and narrowing the development gaps among women in different countries.

Xi stressed that as the Chinese people pursue a better life, every Chinese woman has the opportunity to excel in life and make her dreams come true. China would more actively implement its basic state policy of gender equality, give full play to women’s important role as “half the sky” and support them in realizing their own dreams and aspirations. In the next five years, China would help other developing countries to build 100 “health projects for women and children,” implement 100 “happy campus projects” to finance the schooling of poor girls and raise the school enrollment rate for girls, bring 30,000 women from developing countries to attend training programs in China and provide vocational trainings for 100,000 women in other developing countries. The advocacy, promotion and progress of women’s rights are a gradual process. The Chinese Government has, together with the international community, made unremitting efforts and played a leading and constructive role in this process.

⁹ Guterres [4].

¹⁰ Xi [5].

Measures Taken by China for the Protection of Women's Rights

In order to effectively protect the rights and interests of women and children, the legislative, judicial and administrative organs as well as mass organizations in China have all established corresponding mechanisms, including the Special Group on Women and Children under the Committee for Internal and Judicial Affairs of the NPC, the Committee for Women and Youth under the CCPPCC and the National Working Committee on Children and Women under State Council.

The National Working Committee on Children and Women under State Council is responsible for coordinating and promoting the implementation by the relevant government departments of the laws, administrative regulations, policies and measures relating to women and children and advancing the development of women and children.¹¹ Its member units, approved by the State Council, include relevant government departments as well as important mass organizations. By October 2018, the Committee consisted of 35 ministries and Commissions under the State Council and mass organizations.¹²

The All-China Women's Federation (ACWF), founded in April 1949, is a people's organization that unites women of all ethnic groups and from all walks of life in China, and strives for their further emancipation and development.¹³ Its basic functions are to represent and safeguard women's rights and interests and to promote gender equality. It implements an organizational system of combination of national, local and primary level organizations and collective membership. The highest power organ of women's federation is the National Women's Congress (NWC) and the ACWF's Executive Committee elected by NWC. NWC is convened every five years.

The NPC, as the highest organ of state power, establishes under it the Committee for Internal and Judicial Affairs. The CPPCC, as a political consultative organ, establishes under it a Social and Legal Affairs Committee. The above two committees are responsible for putting forward opinions and suggestions on such major issues relating to the rights and status of women. To strengthen the supervision over and

¹¹ The official Web site of the committee is <http://www.nwccw.gov.cn>, last visited January 20, 2018.

¹² The 35 member units are: the Publicity Department of the CPC Central Committee, the Office of the Central Cyberspace Affairs Commission, the Ministry of Foreign Affairs, the National Development and Reform Commission, the Ministry of Education, the Ministry of Science and Technology, the Ministry of Industry and Information and Technology, the Ministry of Commerce, the Ministry of Agriculture and Rural Affairs, the Ministry of Water Resources, the Ministry of Transport, the Ministry of Housing and Urban and Rural Development, the Ministry of Ecology and Environment, the Ministry of Natural Resources, the Ministry of Finance, the Ministry of Justice, the Ministry of Civil Affairs, the Ministry of Public Security, the National Ethnic Affairs Commission, China Cares for the Next Generation Working Committee, China Association for Science and Technology, China Disabled Persons Federation, All-China Women's Federation, Communist Youth League, All-China Federation of Trade Unions, the State Council Leading Group Office of Poverty Alleviation and Development, National Bureau of Statistics, General Administration of Sport of China, National Radio and Television Administration, State Administration for Market Regulation, Emergency Management Ministry, National Health Commission, and Ministry of Culture and Tourism.

¹³ The official website of ACWF is <http://www.women.org.cn>, last visited January 20, 2018.

assessment of the implementation of the existing legislation and policies, the Standing Committee of the NPC has organized many inspections on the implementation of the Law on the Protection of Women's Rights and Interests, focusing on such key areas as labor and social security, land rights and related property rights and interests and women's political participation, thereby promoting the implementation of relevant provisions.

The Chinese Government attaches special importance to strengthening the cooperation with such domestic organizations as Committee for Female Employees under All-China Federation of Trade Unions, China Disabled Persons Federation, China National Committee on Ageing, China Women Judges Association, China Association of Women Entrepreneurs, China Association of Women Science and Technology Workers and NGOs and listening to their opinions and suggestions on issues relating to women's development and the protection of women's rights and interests.

In recent years, China has further improved the system of laws and administrative regulations on the protection of women's rights and interests with the Constitution as the core and the Law on the Protection of Women's Rights and Interests as the main body. Article 48 of the Chinese Constitution stipulates that: "Women in the People's Republic of China enjoy equal rights with men in all spheres of life, in political, economic, cultural, social and family life. The state protects the rights and interests of women, applies the principle of equal pay for equal work to men and women alike and trains and selects cadres from among women." This article provides the constitutional basis for the adoption and improvement of various laws and policies on the promotion of gender equality. The Law on the Protection of Women's Rights and Interests (amendment in August 2005) stipulates in general provisions that: "Women shall enjoy equal rights with men in all aspects of political, economic, cultural, social and family life. It is a basic state policy to realize equality between men and women. The state shall take necessary measures to gradually improve various systems for the protection of the rights and interests of women and to eliminate all kinds of discrimination against women."

The Law on the Protection of Women's Rights and Interests provides in Article 25 that: "In such aspects as promotion in post or in rank, evaluation and determination of professional and technological titles, the principle of equality between men and women shall be upheld and discrimination against women shall not be allowed", in Article 27 that "No entity may discriminate against women for the reason of gender when implementing the retirement system of the state", and in Article 34 that: "Women's equal right, with men, of succession to property shall be protected by law. Among the statutory successors in the same order, women shall not be discriminated against. Widowed women have the right to dispose of the property inherited by them, and no one may interfere with the disposition thereof." The law has also further improved the protection of women's political rights, cultural and educational rights and interests, labor and social security rights and interests, property rights and interests, personal rights and marriage and family rights and interests and strengthened the assistance to women whose rights and interests have been infringed upon. After the amendment of the Law on the Protection of Women's Rights and Interests, the governments of 31 provinces (autonomous regions and municipalities directly

under the Central Government) have also revised and improved corresponding local legislations, namely measures for the implementation of the Law on the Protection of Women's Rights and Interests.

Other special laws contain further provisions on the elimination of discrimination against women, which are the concrete embodiments of the principle of gender equality and non-discrimination. The Compulsory Education Law, as revised in September 2006, provides in Article 4 that: "All children and adolescents who have the nationality of the People's Republic of China and have reached the school age shall have equal right and the obligation to receive compulsory education, regardless of gender, nationality, race, status of family property, religion, belief, etc." The Employment Promotion Law, which came into force in January 2008, clearly stipulates in the general provisions that: "Workers seeking employment shall not be subject to discrimination based on factors such as ethnicity, race, gender, religious belief etc." The Law of the People's Republic of China on the Contracting of Rural Land stipulates that: "Man and women shall have the equal rights to contract the rural land. The women's lawful rights to land contract shall be protected. No organizations or individuals shall deprive or infringe upon the right to operate contracted land that women shall enjoy. This law also contains clear provisions on the protection of the land contracting right of married women, divorced women, and widows." The Public Security Administration Punishments Law provides that where a violator of public security administration is pregnant or breast-feeding her baby of less than 1 year old, if she should be given a punishment of administrative detention under this Law, the punishment of administrative detention shall not be executed. The Narcotics Control Law provides that drug-addicted pregnant women who breast-feed babies less than one year old are not appropriate for isolated compulsive drug rehabilitation. And the Social Insurance Law gives maternity medical expense benefits to the unemployed spouse of a male employee.

In recent years, women's right of political participation and the right to participate in social governance have been further safeguarded. The Electoral Law of the People's Republic of China for the National People's Congress and Local People's Congresses, as amended in 2010, provides that there shall be an appropriate number of women deputies to the National People's Congress and local people's congresses at various levels, and the proportion of women deputies shall be raised gradually. To solve the problem of underrepresentation of rural women in villagers' committees and increase women's participation in village self-governance, China revised the Organic Law of Villagers' Committees, added to the Law such provisions as "enhance the equality of men and women," "the members of a villagers' committee shall include at least one female," "female representatives shall account at least 1/3 of all members of the villagers' representatives' assembly," and incorporates rural women's participation in village self-governance into the relevant local regulations, women's development plans and plans for the reelection of villagers' committees. On the basis of these provisions, some local governments have adopted the practice of "specially elected female member of villagers' committee," namely adding one additional female member to the existing villagers' committee; some other local governments implemented the "two-election" system whereby a second election for a

villagers' committee is held if no female member of the committee has been elected in the first election, so as to ensure that there is at least one female member in a villagers' committee.

In addition to legislation, China also promotes the realization of relevant goals of laws and policies through the adoption and implementation of national and local programs for the development of women. The Program for the Development of Chinese Women (2001–2010) is the second national program for the development of women promulgated by the State Council. As the general plan for the advancement of women's development in the new era and the National Action Plan for further implementing China's international commitments, it identifies six priority fields for development, namely women and the economy, women's participation in decision-making and management, women and education, women and health, women and law and women and the environment and gives detailed descriptions of main objectives of development and the strategies and measures for their realization. The Chinese Government promulgated a new ten-year program for the development of Chinese women, namely the Program for the Development of Chinese Women (2011–2020), on July 30, 2011. The new program, on the basis of the six priority fields provided for in the previous program, added a new field of priority, namely "women and social security". By taking into consideration of the difference between urban and rural areas and between different regions, it endeavors to solve the new problems faced by women in their subsistence and development.

Since the first National Human Rights Action Plan in China, namely the National Human Rights Action Plan of China (2009–2010), was promulgated by the Information Office of the State Council in April 2009, every National Human Rights Action Plan contains a special chapter on women's rights. Currently, China is implementing the third National Human Rights Action Plan (for the period of 2016–2020), promulgated on September 29, 2016. In the section on "Rights of Women", the Action Plan stressed in a general term that the basic state policy of equality of men and women shall be implemented and that objectives set in the National Program for Women's Development (2011–2020) shall be realized to eliminate gender discrimination, improve the environment for women's development and protect the legitimate rights and interests of women. The concrete measures contained in the Action Plan include:

Firstly, efforts shall be made to promote equal participation of women in the management of state and social affairs. The proportion of women delegates to the people's congresses and CPPCC committees at all levels shall be gradually increased, so shall the proportion of women in the leadership of the people's congresses, governments and CPPCC committees at all levels. By 2020, women members shall make up over 30% of total members of villagers' committees, over 10% of the villagers' committee chairpersons and about 50% of the members of urban residents' committees. As a developing country, China needs to make more efforts in promoting women's right to participate in the administration of state and social affairs.

Secondly, efforts shall be made to eliminate gender discrimination in employment, work remuneration and career development. Special labor protection for women workers shall be made an important content in labor security and safety supervision.

Annual assessment shall be conducted in this regard. In China, the employment of women is very common, and the government still has a long way to go in eliminating employment-related gender discrimination.

Thirdly, women's right to health shall be protected. Efforts shall be made to improve the maternity service system in urban and rural areas and provide basic medical and health services for pregnant and lying-in women. By 2020, the mortality rate of pregnant and lying-in women shall drop to 18 per 100,000; an additional 89,000 obstetric tables and 140,000 obstetricians and midwives are added. The rate of screening of common gynecological diseases shall be raised, and the scope of free checkups for cervical and breast cancers shall be expanded for rural women. Healthcare services for migrant women shall be improved. With the economic development, the central and local governments have increased investment in women's health, which is conducive to raising the level of protection of women's right to health.

Fourthly, women's rights of marriage and family shall be protected. A system of paid maternity leave for male workers to accompany and attend to puerperal wives shall be introduced. Great efforts shall be made to develop nurseries for kids under three years old to help women balance work and family duties. Women's property rights and interests in marriage and family shall be protected. Rights of marriage and family are fundamental rights of an individual, and women play an important role in family life. Safeguarding women's lawful rights and interests, especially childbirth-related rights, and providing assistance and support to families in child care have become a focus of legislation and law enforcement in China.

Fifthly, the Anti-Domestic Violence Law shall be enforced. The multi-departmental cooperative mechanism for the prevention and prohibition of domestic violence shall be improved, so shall an integrated working mechanism that combines prevention, prohibition and assistance. Social organizations shall be encouraged and helped to take part in the work against domestic violence. The newly adopted Anti-Domestic Violence Law is an important breakthrough in the Chinese legislative history. However, the adoption of the law is only the first step in the fight against domestic violence. The legislative objectives of the law can be truly achieved only with the enhancement of social awareness, the participation by the whole society and the support by an effective work mechanism.

Sixthly, China's Action Plan Against Human Abduction and Trafficking (2013–2020) shall be implemented, and effective efforts shall be made to prevent and crack down on such crimes in accordance with the law. With economic globalization and the development of transportation and communication technology, human abduction and trafficking around the world has shown some new characteristics, become increasingly rampant and posed serious threat to the life and personal safety of individuals, especially women and children. China is also faced with both opportunities and challenges in the fight against human abduction and trafficking. In recent years, the Chinese Government has carried out special campaigns against human abduction and trafficking, strengthened national coordination and transnational cooperation in the fight against the crime, while at the same time actively carried out the work of prevention of the crime and the assistance to the victims of the crime.

Seventhly, steps shall be taken to prevent and stop sexual harassment of women. Sexual harassment of women in workplace, schools and other environments has increasingly become the focus of attention of media and society. Currently, China still does not have clear legal standards or rich judicial experience against sexual harassment. However, the stand taken by laws and policies on this issue is clear-cut.

In short, the core values of gender equality and women's human rights have been embodied in the coordination mechanism for government work, the operation of the All-China Women's Federation system and the supporting promotion of laws and policies, and the protection of women's rights has been continuously strengthened in China.

Achievements and Challenges

Today people's consciousness and idea of the equality between men and women are very different from those of the past. In the past, people observed and considered this issue mainly on the basis of comparison between men and women, namely the commonality, similarity or differences between men and women and their influences. Today, people are laying emphasis on the concept of gender equality, namely they attach importance not only to the natural and physiological aspects, but also to the social aspects of sex. In the examination of women's rights, apart from considering the situation and treatment of women in a static and concrete way, we need also to pay attention to the social background, especially the influence of social factors formed historically, culturally and religiously. The gender perspective emphasizes the systematic examination of women's status, the respect for and promotion of women's status as rights subjects, as well as the initiative and creativity of women themselves.

The increasing importance attached to women's rights and continuous enhancement of the consciousness of gender equality by the Chinese Government and society are the keys to the adoption and implementation of law and policies in this field. In recent years, China has made prominent achievements and many monumental breakthroughs in the legislation on the protection of women's rights—all of which embody the enhancement of gender awareness and its positive impact in the country. The revision of the Law on the Protection of Women's Rights and Interests and the development of the judicial interpretation of the Marriage Law by the Supreme People's Court show that China has been attaching more and more importance to the protection of women's rights and interests and the prevention of discrimination against women. The promulgation of the first Anti-Domestic Violence Law in China, which abandons the outdated traditional idea of non-interference by public power in private life, is the result of the strengthening of the protection of fundamental human rights of women by legislative organs in conforming to the trend of the times and social development and responding to social demands, as well as the result of promotion by All-China Women's Federation, other women's rights organizations and a large number of experts and scholars.

Today, women enjoy the opportunity to participate on an equal footing with men in the management of state and social affairs. The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015), issued by the Information Office of the State Council, shows that female deputies account for 23.4% of all deputies to the 12th NPC, 2.07 percentage points higher than the previous congress. There are 25 female members in the 12th NPC Standing Committee, accounting for 15.5% of all members. There are 399 female members in the 12th CPPCC, accounting for 17.84% of the total. Women deputies who served their tenures from 2011 to 2013 accounted for 24.76% of all deputies to provincial people's congresses, and female members accounted for 22.22% in the provincial people's political consultative conferences. In 2015, the proportion of females in the leadership of provincial governments increased notably from that in 2012. In 2014, females in enterprises made up 40.1% and 41.5% of the members on boards of directors and boards of supervisors, respectively.

Between December 2017 and January 2018, a total of 2980 deputies to the current Thirteenth National People's Congress were elected by the people's congresses of 31 provinces, autonomous regions and municipalities directly under the Central Government, the Election Council for Deputies of the Hong Kong Special Administrative Region to the Thirteenth National People's Congress, the Election Council for Deputies of the Macao Special Administrative Region to the Thirteenth National People's Congress, the conference for election through consultation consisting of Taiwan compatriots in the 31 provinces, autonomous regions and municipalities directly under the Central Government and the central party, government and army institutions and servicemen congresses of the People's Liberation Army. Among them, 742 or 24.9% are female. This number is 43 or 1.5% higher than that of the Twelfth National People's Congress, which is a new high since the historical breakthrough made by the Twelfth National People's Congress. Compared to those of the Twelfth National People's Congress, the percentage of female deputies has increased in 23 and remained unchanged in 5 of the 35 electoral units of the National People's Congress. Among them, Liaoning Province has the highest increase in the number of female deputies (increased by 13.73%), followed by Taiwan (7.69%), Fujian Province (5.41%) and Tibetan Autonomous Region (5%). The numbers of female deputies from Hainan Province, Guangxi Zhuang Autonomous Region, Shaanxi Province, Hebei Province and Guizhou Province have increased by more than 3%.¹⁴

The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015) also shows that women enjoy the equal right with men to employment in China. China is always in a leading position in the world in terms of safeguarding the equal employment rights for men and women and equal pay for equal work for men and women. The state implemented the same-age retirement policy for both cadres of section rank in authority organs and public institutions and technical personnel with senior professional titles. In 2014, female employees accounted for 44.8% of all people employed across the country. The state

¹⁴ "The Percentage of Women among the Deputies to the National People's Congress Hits a New Height", in *China Women's News*, February 26, 2018, p. A4.

implemented an interest-deducted small loan policy, where the government pays part of the interest, to encourage women's employment and self-employment. Since 2009, it has provided 260.704 billion yuan in guaranteed loans for start-ups, with subsidized interest payments, to aid nearly 10 million women to start businesses or find a job.

The land rights enjoyed by women in rural areas in accordance with the law are basically guaranteed. The state carried out legal publicity and training in grassroots village committees and strengthened the efforts to file, review and rectify village regulations and folk rules. In the process of determining and registering the right to land contracting and management and in the process of issuing certificates concerning this right, women's rights to land are embodied in registration books and real estate ownership certificates.

The level of health services for women has been raised continuously. In April 2012, the State Council promulgated the Special Provisions on the Labor Protection of Female Employees, revising and improving such provisions as the scope of application and the range of work prohibited for women and extending statutory maternity leave to 98 days. In 2015, maternity insurance covered 77.12 million women across the country, and *per capita* maternity benefit expenditure reached RMB 16,456 yuan, RMB 2000 yuan more than in 2014. In 2015, 12.05 million couples who wanted to have babies received free physical examinations, with the average coverage rate in target groups amounting to 96.5%. During the period of 2011–2015, nearly 50 million pregnant women in rural areas received hospital delivery subsidies, and the rate of women in the countryside giving birth in hospitals increased from 97.8% in 2010 to 99.5% in 2015. The maternal mortality rate lowered from 30 out of 100,000 in 2010 to 20.1 in every 100,000 in 2015. By the end of 2015, 51.95 million and 7.47 million rural women had free tests for cervical cancer and breast cancer, respectively.

China has made breakthroughs in the legislation on the prohibition of discrimination against women and safeguarding the personal rights and other lawful rights and interests of women. On December 27, 2015, the NPC Standing Committee approved the Anti-domestic Violence Law, in which such systems as police cautions, personal safety protection order and mandatory reporting were specially set up. The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Opinions on Handling Domestic Violence Cases in Accordance with the Law, so as to intensify the prompt judicial intervention in domestic violence. From 2014 to 2015, the Supreme People's Court published a total of 15 typical cases related to domestic violence. Some local public security organs and courts effectively prevented and stopped domestic violence in a timely way by actively exploring and using police cautions and personal safety protection orders. On March 1, 2016, the first day of implementation of the Anti-Domestic Violence Law, the Women's Federation of Changsha City, Hunan Province submitted an application for personal safety protection order to the People's Court of Yuelu District of Changsha City on behalf of Ms. Zhou, a victim of domestic violence. The application was approved by the court, and this was the first separate personal safety protection order issued in Hunan Province as well as the first personal safety

protection order applied by a women's federation on behalf of a victim of domestic violence in China.

China resolutely prohibits human kidnapping and trafficking. The General Office of the State Council published China's Action Plan Against Human Abducting and Trafficking (2013–2020), the second Action Plan against human abducting and trafficking in China, in order to strengthen efforts to crack down on such crimes. Meanwhile, China also endeavors to establish a complete anti-human abducting and trafficking mechanism consisting of mechanisms for the prevention and punishment of the crime and assistance to the victims. From 2014 to 2015, a total of 2412 cases of abducting and trafficking women were solved by public security organs. China also launched campaigns against cross-border crimes of abducting and trafficking women, promoting cooperation processes with six Mekong River Sub-region countries.

China, while making huge achievements, has also encountered many problems and challenges in safeguarding women's rights.

Firstly, China still has a long way to go in raising the gender awareness. Ideas discriminatory to women in the traditional Chinese cultural and outmoded conventions and customs not conducive to the protection of women's rights have not yet been completely eradicated and still have certain influence in the contemporary social life, especially in rural or remote areas. Changes in legislation and policies can be relatively fast and proactive, but the enhancement of social consciousness and the cultivation and development of new human rights culture need more time. The broad understanding of and extensive consensus on the social phenomenon and social problems of discrimination against women cannot always be reached over a short period, and objective analyses from the perspectives of development, the rule of law and human rights are needed to enable more people to have a correct and in-depth understanding of the issue. China is making rapid progress in this field, and laws and policies advocating gender equality have played a promotional role in this respect. In this sense, it is even more necessary for the staffs of legislative, judicial and administrative organs to continuously enhance their gender awareness. In recent years, the Center for Gender and Law Studies of the Law Institute of Chinese Academy of Social Sciences and other Chinese research institutions engaged in the study of women's rights have carried valuable work of reviewing laws from the gender perspective. In other words, scholars and related research institutions have carried out special review and evaluation of existing and newly adopted legislations from the gender perspective and using gender methods and put forward corresponding legislative suggestions. This is a useful practice of gender mainstreaming in China.

Secondly, there is still room for improvement in women's political and social participation. As mentioned above, the percentage of women among deputies to people's congresses has been raising in recent years. However, compared with the institutions and practices in some other countries, the representation of Chinese women in national and local people's congresses is still not satisfactory. Apart from that, the phenomenon of women's low representation in rural villagers' self-governance organs, educational and scientific research institutions, enterprise management, etc., and the "glass ceiling" (an intangible barrier within a hierarchy that prevents women from obtaining upper-level positions) phenomenon still exist to

varying degrees in different regions and different fields. China must pay attention to these phenomena and promote with a constructive attitude the awareness of women's status and development potentials and the advancement of equal and fair treatment of women.

Thirdly, in the process of continuous improvement of legislation, the critical significance of implementation of law has become even more prominent. Chinese law clearly prohibits sexual harassment, domestic violence, maltreatment of women and children and the discrimination against women in employment—which are the common social problems faced by different countries or societies in safeguarding women's rights. However, the improvement of law does not mean the actual solution of the problems. In a society, there are always people who have the mentality of “not washing one's dirty linen in public” or who turn a blind eye to or adopt an attitude of indifference toward the phenomenon of discrimination against women. And the enforcement of relevant laws has met with controversies and misunderstandings. To put to an end to behaviors such as sexual harassment, domestic violence, maltreatment of women and children and discrimination against women in employment, China should not only show the legal bottom line through legislation, but also establish the mechanisms for preventing, coping with and remedying such behaviors. China has established such mechanisms as women's rights hotlines, and many local governments have set up temporary shelters for victims of domestic violence in accordance with law. However, since the relevant laws have just been adopted, China still lacks the practical experience in their implementation, and it still has a long way to go in establishing and perfecting the relevant mechanisms.

Fourthly, China needs to build consensus on some specific issues and promote a broader range of targeted reforms and developments. For example, the same retirement age for men and women is a controversial issue. Currently, China implements a retirement age system for enterprise employees whereby male employees retire at the age of 60, female cadres retire at the age of 55, and female workers retire at the age of 50. This standard was first provided for by the Regulations on Labor Insurance in the 1950s and reaffirmed by the Standing Committee of the National People's Congress in 1978. It took into full consideration such factors as the work conditions, the average life expectancy, the physiological differences between men and women at the time of its adoption, proceeded from the protection of the labor rights and interests and the physical and mental health of employees, especially female employees, and indeed played a positive role in this respect. Later, with economic and social development, the state has promulgated a series of policies on the extension of the retirement age for female employees. For example, senior female experts who are willing to continue their normal work after the legally prescribed retirement age and whose health condition allows them to do so may delay their retirement until the age of 60. Senior female experts who have reached the age of 60, but whose continued working is truly necessary and duly approved, may delay their retirement age up to 65 years old if they hold an associate senior title or up to 70 years old if they hold a senior professional title. The Eighteenth Central Committee of the CPC pointed out at its Third Plenary Session that China will implement policies to gradually increase the retirement age. The question of whether it is necessary to carry out reform to

make policies more adapted to different fields, professions and targets and show more respect for women's status and demands as rights subjects, in other words, whether women's right of choice relating to their retirement age should be respected and how to respect this right, is a question that worth in-depth study.

In conclusion, the protection of women's rights is an important aspect of the human rights cause in China. In recent years, with economic development, social progress and the improvement of laws and policies, China has already achieved prominent results in this aspect. Meanwhile, the enhancement of gender awareness and the construction, improvement and implementation of the gender equality system cannot be achieved overnight, but take a long time.

References

1. Song, Y. (2013). The Promulgation of the Marriage Law: Opening the First Page in the Construction of Democracy and the Rule of Law in China. Available at <http://acwf.people.com.cn/GB/99061/188863/index.html>. Last visited December 28, 2013.
2. Humphrey, J. (1989). *No Distant Millennium: The International Law of Human Rights* (p. 203). UNESCO.
3. Office of the High Commissioner for Human Right. (1999). *Fact Sheet No. 22: Discrimination against Women: The Convention and the Committee* (p. 1).
4. Guterres, A. (2018). Remarks on International Women's Day 2018, website of the United Nations, <https://www.un.org/sg/en/content/sg/speeches/2018-03-08/remarks-international-womens-day>. Last visited March 9, 2018.
5. Xi, J. (2018). Promoting Women's All-round Development and Building a Better World for All—Speech at the Global Summit of Women. Xinhua News Network, at: http://www.xinhua.net.com/politics/2015-09/28/c_128272780.htm. Last visited January 20, 2018.

The Right of the Child



Children are the hope of the nation and society. This is true at all times and in all nations. In the modern human rights system, it seems that there are more consensuses than controversies among different states on issue of the protection of the rights of the child. However, the establishment and advocacy of the right of the child in international human rights system does not have a long history.

It was not until 1989 that the UN General Assembly adopted the first specialized international convention on the protection of the rights of the child—the Convention on the Rights of the Child. Now the Convention has been ratified by 196 countries and is currently the international convention with the largest number of state parties in the world. It is a typical example of “latecomers getting ahead of others”: The international standards in the Convention were established later, but gained more consensus and universal support, than other international human rights standards. The UN Drafting Group on the Convention on the Rights of the Child began its work in 1979. The Chinese delegation, which began to participate in the drafting work in 1980, had put forward several proposals, most of which had been accepted by other delegations of the drafting group and contributed to the finalization of many articles in the Convention. China was one of the co-sponsor countries that submitted the draft resolution for the approval of the convention at the 44th Session of the UN General Assembly in 1989.

The Convention was formally ratified by the Standing Committee of the Seventh NPC at its 23rd meeting on December 29, 1991. China’s Permanent Ambassador to the UN deposited China’s instrument of ratification of the Convention at the UN on March 2, 1992, thereby making China the 110th state parties to the Convention. The Convention became effective with respect to China as of April 2, 1992.

On August 29, 2002, the Standing Committee of the Ninth NPC ratified at its 29th meeting the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which was signed by the Chinese Government on September 6, 2000. On December 29, 2007, the Standing Committee of the Tenth National People’s Congress adopted at its 31st meeting the Optional Protocol to the Convention on the Rights of the Child on the Involvement

of Children in Armed Conflict, which was signed by the Chinese Government on March 15, 2001.

Article 1 of the Convention on the Rights of the Child defines the child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” The Law of the People’s Republic of China on the Protection of Minors provides in Article 2 that a “minor” means a citizen under the age of 18, which is in conformity with the definition of the child in the Convention.

According to the data from the Sixth National Population Census in China, currently China has a total of 299,668,269 minors, consisting 22.48% of the total population in the country. Among them, 160,619,971 or 53.60% are boys and 139,048,298 or 46.40% are girls.

The protection of the rights of the child is the priority among priorities, as well as a bright spot, in the human rights protection undertaking in China. In recent years, China has made rapid progresses in the raise of awareness of protection of the rights of the Child, especially in the establishment of a new outlook on the child and the perspective of the rights of the child. With the continuous improvement of the relevant laws, policies and social organizational framework, China has achieved marked results and at the same time encountered many challenges in the protection of the rights of the child.

The Rights of the Child Are Human Rights

Literally, it is not difficult to understand the judgment that “the rights of the child are human rights.” However, historically, this judgment is hard won. In Ancient Rome, complete human beings or citizens under the law referred only to adult males, not including slaves, women and children. Generally speaking, human rights should be the rights enjoyed by all human beings. However, we must realize that the protection of the rights of the child has its uniqueness and special requirements.

In order to understand and realize the rights of the child, we must understand the new outlook on the child, namely the basic understanding of the child, childhood and the accompanying rights. It embodies the ideological basis of the Convention on the Rights of the Child and guides the practice of the Convention. The new outlook on the child has provided new reference and guidance for the revision of the Law on the Protection of Minors in China.

In a nutshell, the new outlook on the child consists of the following three aspects: Firstly, a child is a human being. No matter how weak and immature, a child has independent personality and enjoys various rights provided for by law in the same way as an adult does. He or she is not an accessory to any adult, family or any institution or organization. Moreover, a child is the subject of rights. All adults in society must respect children and have the responsibility to protect the rights of the child. Secondly, a child is a minor who is entitled to special legal protection. Children are at an independent stage of human life and have their own values. It is not right to treat children as incomplete human beings or childhood as the preparatory stage

of adulthood. Finally, children should be treated in a way compatible with their age and physical and mental development and conducive to their healthy growth and development. Childhood is a long period in human life that can be divided into different stages. Children at different stages of physical and mental development need to be provided with corresponding rights protection.

In the Chinese culture and the cultures of some other countries, there are the good traditions of respecting the old and cherishing the young and attaching importance to education. However, traditional cultures also contain long-standing concepts and costumes that are adverse to the protection of the rights of the child. In ancient Chinese culture, filial piety is the dominant idea which stresses that children must pay a debt of gratitude to their parents. The tradition of ancestor worship stresses the role of boys in carrying on the family line; the patriarchal dominant culture alienates the female offspring; and the idea of social hierarchy suppresses the status of girls and boys who are not the eldest son and makes people think that the sacrifice of one child for the greater interest of the clan is acceptable. The social order brought about by the idea of social hierarchy determines the autocratic nature of the parents-children relationship: On the one hand, it restricts the autonomy of the individual, and on the other hand, it makes the child to adapt themselves to the overall hierarchical structure of the society. The dominant idea is to treat childhood as a stage of human development without its own independent value.¹

Since the modern times, there have been great changes in people's understandings of the child, the childhood and the upbringing and development of the child. The health and the comprehensive development of the child have been better safeguarded in terms of both objective and subjective conditions.

The Chinese Constitution provides in Article 49 Paragraph 1 that: "Marriage, the family and mother and child are protected by the state," in Article 49 Paragraph 2 that: "Maltreatment of old people, women and children is prohibited," and in Article 46 Paragraph 2 that: "The state promotes the all-round development of children and young people, morally, intellectually and physically." The Law on the Protection of Minors provides in Article 1 that the purpose of the Law is "to protect the physical and mental health of minors, safeguard their lawful rights and interests, and promote their all-around development in terms of moral, intellectual, physical, aesthetics, and labour education."

The mainstreaming of human rights in international and domestic legislation and policy-making and the incorporation of the rights of the child into human rights is a historical breakthrough. This breakthrough is first embodied in the relevant ideas and in the advocacy of the new outlook on the child. More specifically, in the human rights law, it is embodied in the adoption and implementation of the core principle of the Convention on the Rights of the Child—the principle of the best interest of the child.

The best interest of the child is provided for in Article 3 Paragraph 1 of the Convention: "In all actions concerning children, whether undertaken by public or private

¹ Kinney [1].

social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

The importance attached by the Chinese Government to the principle of the best interest of the child is typically embodied in the process of revision of the Law on the Protection of Minors in 2006.

When the (Draft) Revision of the Law on the Protection of Minors was deliberated at the 24th Meeting of the Standing Committee of the Tenth NPC on the afternoon of October 29, 2006, Ms. Gu Xiulian, the then Vice Chairman of the Standing Committee of the NPC, proposed with great foresight that the principle of the best interest of the child be incorporated into the Law, pointing out that the UN attached high importance to this principle and raised many issues relating to children in its Millennium Development Goals, that all countries in the world were studying the question of how to adapt the intellectual and physical growth of the child to the modernization process, and that the USA had been studying this question for a long time and China was also studying this question.²

During the deliberation, Mr. Shen Chunyao, a member of the NPC Standing Committee, also proposed that the principle be clearly provided in the Chinese law, pointing out that this issue had been raised by some experts and government departments. As far as the Convention on the Rights of Child—to which China is a state party—is concerned, this principle is not an ordinary provision, but the core provision and an important principle. The Convention mentioned this principle in more than a dozen places. It should be said that this principle embodies the core principle and important value of the protection of the rights of the child. He also pointed out that some people think that the term “best interest” is too vague to be expressed clearly in the law. Actually, as a principle, it first and foremost embodies an important idea and direction. China, as the most populous country in the world, is also a country in the world with largest child population. Therefore, it should fully and completely embody this important principle of the international human rights convention in its legislation on the protection, promotion and development of the rights of minors.³

It was under the leadership of the government and through the advocacy of far-sighted personage that the principle of the best interest of the child was incorporated into the Chinese Law on the Protection of Minors. Article 3 Paragraph 1 of the revised law provided that: “Minors may enjoy the right to survival, development, protection, and the right to participation, etc. The state shall, according to minors’ physical and mental development features, provide particular and preferential protection, and safeguard minors’ lawful rights and interests from being injured.” In this provision, the term “particular and preferential protection” is the embodiment of the principle of the best interest of the child in the Chinese legislation.

The 2006 revision of the Law on the Protection of Minors embody many important innovations. For example, Article 7 Paragraph 2 of the Law is a major breakthrough and typical embodiment of the mainstreaming of the rights of the child. It provided that: “The state Council and the local people’s governments at all levels shall lead

² Liu [2].

³ Ibid.

relevant departments to do a good job in protection of minors, incorporate the work of protection of minors into the national economic and social development planning and the annual plans, and include the relevant expenses into the budget of the governments at their respective levels.” It is of key significance to the implementation of the principle in that it requires the Government to take the protection of the minors into consideration in decision-making and in national economic and social development programs and annual plans and providing clear budgetary safeguard for the implementation of this principle.

Actually, the principle had already been influencing the Chinese legislation even before the 2006 revision of the Law on the Protection of Minors. In the 2001 amendment of the Marriage Law, the provision that “At the time of divorce, the husband and the wife shall seek agreement regarding the disposition of their jointly possessed property. If they fail to reach an agreement, the people’s court shall make a judgment, taking into consideration the actual circumstances of the property and the rights and interests of the wife and the child” was revised by putting “children” before “the wife” at the end of the provision, namely “following the principle of favoring the children and the wife.” This amendment has undoubtedly embodied the principle of the best interest of the child, namely the divorce of parents should not reduce the welfare of the child.

The principle of the best interest of the child in the national legislation is also embodied in local legislation, departmental rules and relevant legal interpretations, including judicial interpretations, which laid a foundation for the further implementation and elaboration of the principle and provide legal norms and operational guidance for the related judicial and law enforcement activities. Legislation is the reinforcement and development of important policies. The Chinese Government has first confirmed the principle in its policy documents and always taken it as the basic principle of its work for children. This practice is in conformity with the requirements of the Convention on the Rights of the Child and reflects the direction and trend of development of the work for children.

Measures for the Protection of the Rights of the Child

To effectively protect the rights and interests of the child, the legislative, judicial, administrative departments and mass organizations in China have all established the corresponding mechanisms. Both central and local government departments involving education, public health, culture, public security, physical culture and civil administration have set up functional organs to be responsible for the work for children.

On February 22, 1990, the State Council of China set up the National Coordination Committee on Children and Women—the predecessor of the Work Committee for Women and Children under the State Council—to replace the National Coordinating Committee for the Work for Children and Teenagers, which was under the leadership

of All-China Women's Federation, as the coordinating organ for the work for women and children in the country.⁴

On August 4, 1993, the National Coordination Committee on Children and Women under the State Council was renamed the Work Committee for Women and Children under the State Council (NWCCW). As the coordination and consultation organ of the State Council in charge of women and children's work, it is responsible for coordinating and promoting the implementation of various laws, administrative regulations and policy measures relating to women and children by the relevant government departments and for developing women's and children's undertakings in China. It has the following basic functions: 1. coordinating and supervising relevant government departments to do women and children's work well; 2. coordinating and supervising relevant government departments to formulate and organize the implementation of the outlines for the development of women and children; 3. coordinating and supervising relevant government departments to provide necessary human, financial and material resources for the work for women and children and for the development of women's and children's undertakings; 4. guiding and supervising the work of its subordinates in all provinces, autonomous regions and municipalities directly under the central government.

The member units of NWCCW are approved by the State Council. They include relevant government organs as well as important mass organizations. A trend of development of the Committee is that it has more and more member units and covers more and more fields. As mentioned in the previous chapter, now the Committee consists of 35 departments and commissions under the State Council and mass organizations.

As early as on February 16, 1992, the State Council adopted the first outline of the program for the development of Chinese children, namely the Outline of the Program for Chinese Children's Development in the 1990s, in response to the two documents adopted by the Summit Conference on the Issue of World Children, namely the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for the Implementation of the World Declaration on the Survival, Protection and Development of Children in the 1990s, and in light of the 24 global indices of children's development. The Outline put forward 10 main objective and 39 supporting objectives. It especially provided that: "Chinese Government will effectively implement the Convention on the Rights of the Child, approved by the Standing Committee of the NPC."⁵ In accordance with this document, which was the first national Action Plan that took children as its subject, the relevant departments under the State Council and the governments of all provinces, autonomous regions, municipalities directly under the Central Government and almost all county and municipal governments in China had adopted programs for the development of children and the corresponding implementation measures in their respective administrative regions.

⁴ The official Web site of the Work Committee for Women and Children of the State Council is <http://www.nwccw.gov.cn>, last visited January 20, 2018.

⁵ *The Outline of the Program for Chinese Children's Development in the 1990s*, Part III (Strategies and Measures), Sect. 7 (Protection of the Rights and Interests of the Child), Paragraph 1.

Despite the great achievements it has made, the Chinese Government is clearly aware of the fact that it is still faced with many difficulties and problems in the field of children's development in the country and, in accordance with the Outline of the 10th Five-Year Plan for National Economic and Social Development and in light of the current situation of the development of children in China, adopted the Program for the Development of Children of China (2001–2010). As the outline of national Action Plan for the work for the children in China in the twenty-first century, it put forward the objectives and concrete measures for children's development in China in the first decade of the twenty-first century in the following four areas: children and health; children and education; children and legal protection; and children and environment. The adoption and implementation of this document had further promoted the healthy growth of children and the continuous development of the children's undertaking in China. It clearly provided for the principle of "putting children first" in the General Objectives: "adhering to the principle of putting children first, safeguarding the rights of the child to survival, development, protection and participation, improving the overall quality of children and promoting their physical and mental development; raising the main indicators of children's health to the advanced level of developing countries; systematically popularizing high school education in large and medium-sized cities and economically developed areas on the basis of basically popularizing nine-year compulsory education; gradually improving the system of laws and administrative regulations on the protection of the child and safeguarding the rights and interests of the child in accordance with law; and optimizing the environment of the growth of the child and providing special protection to children in difficulties."

The Program for the Development of Chinese Children (2011–2020), promulgated by the State Council on July 30, 2011, is the third national program on the protection of children promulgated by the Chinese Government. It puts forward the objectives of children's development in the fields of health, education, welfare, social environment and legal protection to be achieved by China by the year 2020, namely: establishing a basic medical health system covering all urban and rural children and improving the physical and mental health of children; promoting the equality of basic public education service and ensuring higher-quality education for children; expanding the scope of children's welfare and establishing an appropriate and all-inclusive welfare system for children; raising the level of socialized service for children and creating a child-friendly social environment; and improving the legal system and mechanism for the protection of children and protecting the lawful rights and interests of children in accordance with law. The new program has set up 52 main objectives and 67 strategic measures in the above five fields. It especially points out that the transition of the children's welfare system from supplementary system to all-inclusive system is a major progress and an important policy adjustment of the children's welfare system by China in light of the development of the national economy. Currently, the Ministry of Civil Affairs is organizing experts in demonstrating and drafting the Regulations on Child Welfare. The adoption of the first legislation on child welfare in China will to a large extent change the current situation in which all social security and

welfare systems are provided for in policy documents and characterized by obvious fragmentation.

The National Human Rights Action Plan of China (2009–2010) was issued by the Information Office of the State Council on April 13, 2009. As the first national Action Plan with human rights as its theme, it was a historical breakthrough; the second human rights Action Plan in China, the National Human Rights Action Plan of China (2012–2016), was promulgated on June 11, 2012; and the National Human Rights Action Plan of China (2016–2020), promulgated on September 29, 2016, is the national human rights action plan currently under implementation in China. All the three action plans contain special provisions on the rights of the child. For example, the third Action Plan stresses that: “The principle of ‘putting children first’ shall be upheld, the responsibility of the government and the whole society for the protection of children’s rights and interests shall be highlighted, and the goals set in the National Program for Children’s Development in China (2011–2020) (the National Program) shall be fully realized.” More specifically, it contains the following measures and quantitative indices:

Firstly, at the legislative level, revising the Law on the Protection of Minors to further strengthen the protection of the rights of the child: improving the child guardianship system, especially the system of surrogate guardianship under special circumstances, establishing a social network for the care of minors, and a guardianship system based on family guardianship, guaranteed by supervision by relevant institutions and persons such as the neighborhood and school, and supplemented by state guardianship; and improving and implementing the legal system to remove the guardianship status of parents or other custodians who fail to perform their responsibilities or seriously infringe upon the rights and interests of children under their guardianship.

Secondly, further strengthening the protection of children’s right of health: The state shall establish a service system for preventing and treating birth defects, covering the pre-pregnancy, pregnancy and neonatal stages and accessible by both urban and rural residents. The state shall also enhance the prevention and treatment of childhood diseases and injuries. By 2020, the mortality rate of infants and kids under the age of five shall be no higher than 7.5 per 1000 and 9.5 per 1000, respectively. The vaccination rate under the national immunization program, calculated by taking the rural township as the basic unit, shall be kept above 95%. The nutrition-enhancement program for students receiving compulsory education in rural areas shall be carried on. Physical education in schools shall be given great priority in order to constantly improve the students’ physical health. More guidance shall be given to improve the mental health of minors.

Thirdly, strengthening the protection of the property rights of minors: protection shall be extended, in accordance with the law, to the children’s rights to proceeds generated by property, bequests, intellectual property right, right of inheritance and independent right of property dominion within certain limits.

Fourthly, strengthening the comprehensive maintenance of public security on and around school premises: enhancing school bus safety management and preventing and curbing violence on campus.

Fifthly, creating a social environment conducive to the participation by children: encouraging and supporting children to participate in family, school and social affairs and opening up channels for children to get involved and express themselves.

Sixthly, safeguarding children's right to leisure and recreation: strengthening the efforts in the construction of facilities for children's activities and services in communities; establishing "children's homes" in over 90% of urban and rural communities by 2020; ensuring that at least one full-time or part-time social worker in relation to children is employed in each urban subdistrict and rural township; and lessening the schoolwork load by addressing both root causes and symptoms.

Seventhly, taking care of children in difficulties: establishing children's welfare and service systems at city, county, township (subdistrict) and community levels in addition to the implementation of a plan for the construction of children's welfare institutions and institutions for the protection of minors at the county level; improving the system of welfare for children in difficulties; further improving the security system for orphans; raising the level of guarantee for the rights to life, education, health care and other rights of AIDS-affected children and prisoners' children under 18 years old; and strengthening the protection and care for children of migrant workers left behind in the countryside.

Eighthly, establishing a working mechanism against violence to children to prevent, monitor, report, investigate, evaluate and handle cases of violence to children and provide necessary assistance; punishing in accordance with law such criminal activities as the abduction, maltreatment and abandonment of children, forcing children into begging and all forms of sexual abuse of children; and severely punishing the criminal activities of employment of child labor and exploitation of children.

Ninthly, reducing as much as possible the number of arrest, prosecution and imprisonment of juvenile suspects: reforming the working mechanism in relation to the trial of minors and children-related family cases, establishing a mechanism for linking up judicial and administrative protection of children and making continued efforts in community-based correction of juvenile delinquents.

Legally speaking, all the above plans and programs are the policy documents adopted by the government for the safeguarding of human rights during a certain periods of time. Although lacking the legal binding force of provisions of law, they are policy measures implementing the constitutional principle of respecting and protecting human rights and the relevant laws and administrative regulations, the national plans adopted in light of the duties and tasks of the government and the concretization of the relevant constitutional and legal provisions in the government work. Since this kind of plans require the effective implementation by the central and local governments at various levels, they are the guidelines with strong operability and executive force and, as such, are of great significance to the implementation of law.⁶

⁶ See Liu 3, [4].

Achievements and Challenges

In recent years, the achievements made by China in the protection of the rights of the child have been prominently embodied in the advocacy of the new outlook on the child and the enhancement of the awareness of the protection of the rights of the child. The rights of the child have been attached unprecedented importance, and rights-oriented changes have been made to the mode of the work on children. Chinese laws and policies all clearly stress the principle of the best interest of the child and the principle of “putting children first.” “All for the sake of children” has become a slogan built on social consensus.

In China, which is a developing country with a huge population, the safeguarding of the rights of the child is a priority among priorities in the human rights work as well as a very challenging field of work. With the rapid economic development, the safeguarding of child welfare has been effectively strengthened in China. According to the Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015), issued by the Information Office of the State Council on June 14, 2016, and the official statistics published at the end of 2017,⁷ in 2015, China had reduced the mortality rate of infants and the mortality rate of children under the age of five to 8.1% and 10.7%, respectively, 38.2% and 34.8% lower than those in 2010, thus achieving the objectives of the National Program and the United Nations Millennium Development Goals ahead of schedule. In 2014, the incidence rates of low weight in infants and children under the age of five were 2.6% and 1.48%, respectively, with the expected goals achieved ahead of schedule. Over 97% of children were vaccinated in the national immunization program. In 2014, the average vaccination rate exceeded 99%. The state has steadily implemented a nutrition-enhancement program for students receiving compulsory education in rural areas. By the end of October 2015, the national pilot program was launched in 699 concentrated destitute counties in 22 provinces (autonomous regions and municipalities directly under the central government), benefiting 21.1516 million students. Also by the same time, the program was carried out on a local trial basis in 673 counties in 23 provinces, benefiting 10.9078 million students.

The right to education, as a basic right of the child, is of great significance to the healthy growth and development of the child. Chinese families, society and the government have all attached high importance to the realization of children’s right to education and the popularization of compulsory education in China has been further consolidated. In 2015, the net enrollment rate in primary schools was 99.95%, the gross enrollment rate in junior high schools reached 104%, and the completion rate of compulsory education was 93%, 1.9 percentage points higher than that in 2010. The

⁷ Information Office of the State Council, *Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015)*, Beijing: Foreign Languages Press, 2016; “China Is Taking Big Strides in Developing All-inclusive Children’s Undertaking: An Overview of the Achievements Made by China in the Development of Women’s and Children’s Undertakings (Part II),” in *China Women’s News*, November 18, 2016, p. A1.

availability of compulsory education had reached the average level of high-income countries.

The basis of the safeguarding of the rights of the child is in the grassroots and communities. China vigorously promotes public services for children in urban and rural communities and builds community children's homes. A total of 181,877 children's homes were built throughout the country by the end of 2015. Local governments at various levels have implemented projects using the special lottery public welfare proceeds of the central finance to support the building of children's cultural centers for rural schools. The central government has provided RMB 3.385 billion yuan of special lottery funds to build 12,000 children's cultural centers for rural schools. The participation of and the role played by social workers are indispensable to the grassroots children's work. In the years between 2011 and 2015, a total of 54,176, 84,135, 123,084, 158,929 and 206,183 persons in China had acquired the Professional Level Certificate for Social Workers. In light of the requirements of the Thirteenth Five-year Civil Administration Development Plan, the expected results of "at least one full-time or part-time social worker in relation to children shall be employed in each urban subdistrict and rural township," provided for in the National Program, can be achieved on schedule.

Targeted enhancement of the relief work for children in need has been achieved. China has further raised the level of basic living guarantee for minors living in poverty. In 2015, a total of 8.568 million minors had been covered by urban and rural subsistence allowance, with *per capita* subsistence allowances reaching RMB 317 yuan for urban beneficiaries and RMB 147 yuan for rural beneficiaries. The government has established a system of subsistence allowances for orphans. Basic living allowance for orphans are paid according to the standard of no less than RMB 1000 yuan per month for those living in orphanages and no less than RMB 600 yuan per month for those living at homes. From 2012, the government began to pay subsistence allowances to HIV-affected children by taking the local standard of subsistence allowances for orphans as reference. On June 16, 2016, the State Council promulgated the Opinions on Strengthening the Care and Protection of Children in Need, which expand the coverage of child welfare from only orphans and abandoned babies to children in difficulties because of poverty, disability or absence of or improper family guardianship. In 2015, there were a total of 478 welfare institutions for children with comprehensive functions and over 800 children's departments within social welfare institutions.

While strengthening the state and social assistance to children in need, China has put on its agenda the establishment and gradually improvement of an overall welfare system for children. To enable children to enjoy more abundant medical resources, the state has realized the full coverage of children by the basic medical insurance system at the institutional level through urban residents' basic medical insurance, the new rural cooperative medical care system, the critical illness insurance system for urban and rural residents and medical relief for those suffering from severe or major illnesses. The participation rate of medical insurance for urban residents and the new rural cooperative medical care system by urban and rural residents, including children, has exceeded 95%, with reimbursement ratios of outpatient and inpatient

costs reaching 50% and 75%, respectively. The system of serious illness insurance for urban and rural residents has been fully implemented and the level of safeguard for children with serious diseases has been raised. In 2015, China provided medical assistance to 95.238 million people, including children.

China resolutely opposes human trafficking. By the end of 2015, the national anti-trafficking DNA database had helped over 4000 missing children find their parents. From 2014 to 2015, the state solved 2216 cases of trafficking in children. The Supreme People's Court has issued a number of judicial interpretations of the handling of cases of trafficking in women and children to strengthen the anti-human trafficking efforts, including imposing more severe punishments on those who steal babies or obstruct the rescue of trafficked women and children.

In recent years, the Chinese Government has attached high importance to the criminal justice protection of minors and juvenile justice has become a bright spot in the innovation of the judicial system in China. Judicial organs have adhered to the principle of "education, persuasion and rehabilitation" toward juvenile delinquents and implemented the system of sealing juvenile criminal records in cases where a punishment of less than five years of fixed-term imprisonment is imposed on the juvenile delinquent. The Supreme People's Court and the Supreme People's Procuratorate have successively promulgated the Opinions on Punishing the Crime of Sexual Assault against Minors and the Opinions on Several Issues relating to the Handling in accordance with Law the Infringement upon the Rights and Interests of Minors by Their Guardians. China has advanced the development of juvenile courts, and as of June 2017, there were more than 2200 juvenile courts and over 7000 juvenile court judges throughout the country. The Supreme People's Procuratorate has set up a procuratorial work office for juveniles. As of November 2016, 24 provincial procuratorates, 192 municipal procuratorates and 1024 grassroots procuratorates had set up special procuratorial agencies for minors. In recent years, the recidivism rate of juvenile offenders has been held at 1–3%. The numbers of juvenile criminals and juvenile criminal cases have been declining as a whole.

The judicial protection of the rights of the child has been strengthened. People's procuratorates strengthened the prosecution work in civil cases involving minors and people's courts have attached importance to the protection of the rights of the child in the trial of civil and criminal cases. On February 4, 2015, the People's Court of Tongshan District, Xuzhou City, Jiangsu Province held an open hearing of China's first case of application for the revocation of parents' guardianship over a child, filed by a civil affairs department. After the hearing, the court ruled to revoke the guardianship of the parents over their child on ground that the father had been convicted of raping and molesting the child, and the mother had abandoned the child. The Court appointed the Civil Affairs Department of Tongshan District of Xuzhou Municipality as the guardian of the child. The child was placed in foster care with financial support from the civil affairs department. In November 2017, the People's Procuratorate of Fengtai District, Beijing Municipality supported an application for the revocation of guardianship brought by the Civil Affairs Department of Xicheng District of Beijing Municipality. In this case, the defendant had committed long-term domestic violence against her legally adopted daughter, causing her serious

physical and mental harms. After the case was exposed, the Civil Affairs Department of Xicheng District provided emergency shelter and temporary care to the victim and brought a lawsuit at the People's Court of Xicheng District, applying for the revocation of the guardianship of Ms. Liu over her adopted daughter. The People's Procuratorate of Fengtai District, Beijing Municipality participated in the lawsuit as a party supporting the application. The application was approved by the court and the victim began a new life under the guardianship of the Civil Affairs Department of Xicheng District.

The implementation of the principle of the best interest of the child stressed in the Convention on the Rights of the Child and the relevant Chinese laws and policies has led to real changes in judicial practice in China, as are shown in the following two cases.

The right of name is an important right of the child in practice. A typical case in this respect is the Case of Yao Pengcheng v. Yao Kunyun (Final Judgment No. 1514 (2001) of the Intermediate People's Court of Kunming Municipality, Yunnan Province). In this case, the plaintiff, Mr. Yao Pengcheng, brought a case against his ex-wife, Ms. Yao Kunyun, to the People's Court of Wuhua District of Kunming Municipality for changing their son's family name without authorization and infringing upon his right of visit to his son, and requested the court to restore his son's original family name. In this case, the plaintiff and the defendant had been husband and wife and they had son named Yao Yueda. In 1995, they were divorced by a court judgment and their son had been raised by the defendant after the divorce. In September 1999, the plaintiff discovered that the defendant had changed their son's family name from Yao to Ma without authorization and brought the case to the court. The defendant rejected the request by the plaintiff on ground that the child had used his new name for over six years. The new name had already been accepted by the child himself, his family members, his friends, his teachers and classmates in school and used in various files and insurance documents. If the plaintiff's request was granted by the court, the child would have to face another major change in his young life. The court cited as the legal basis of its judgment Article 19 of the Several Specific Opinions of the Supreme People's Court on the Handling of Child Custody in the Trial of Divorce Cases by the People's Courts, which provided that: "In cases where a parent changes without authorization the family name of his or her child to that of the child's step-mother or step-father, thus resulting in dispute, the court shall order him or her to restore the child's original family name" and pointed out that a child can adopt either the father's or the mother's family name. The defendant had violated the relevant provisions of law by changing the child's family name to one that was neither his father's nor his mother's. Therefore, the court ordered the defendant to change the child's family name from "Ma" to either his father's or his mother's family name within five days after the judgment came into force. The defendant filed an appeal against the judgment to the Intermediate People's Court of Kunming Municipality, but the appeal was rejected by the court.

In this case, the court did not ask the opinion of the child, Yao Yueda, himself. His right of name seemed more like his parents' right. The laws and judicial interpretations applied by the court did not provide sufficient support for the upholding of the best interest of the child, who was a party in the case.

With the passage of the time, however, there has been a change in the legal reasoning and the above-mentioned judicial interpretation has been invalidated. In a case in 2007, the People's Court of Changping District, Beijing Municipality ruled that the child, not the father, has the right to decide whether or not to change his or her name.⁸ In this case, Mr. Wang and his wife registered their marriage in March 1993. His wife gave birth to a boy on January 6, 1994. In April 2002, Wang and his wife were divorced by a court judgment. In accordance with the judgment, their child had been raised by the mother after the divorce. Later, Mr. Wang found out that his ex-wife had changed the child's name, adopting a family name other than "Wang". Mr. Wang held that the name of the child had been agreed upon between the parents before the divorce. His ex-wife's act of changing the child's name without consulting with him had infringed upon his guardianship right and therefore requested the court to restore the child's original name. Mr. Wang's ex-wife held that, according to the relevant provisions of the Marriage Law, a child can adopt either the father's or the mother's name. The child himself, not any of his parents, had the right to change his name. Changing the child's name would not harm the interest of any of his parents. Moreover, the child had used his new name for over a year. It had been familiarized by his teachers and classmates in school and recorded in his school registration and files. Therefore, it would be bad for the child to change his name back to the original one. The court held that the right of name is the right of identity enjoyed by every citizen. A citizen has the right to use and change his or her name and to protect his or her name from infringement. Mr. Wang's child has the right to change his name. Mr. Wang's claim that the defendant had infringed upon his guardianship right by changing the child's name without his consent was unfounded and therefore should be dismissed.

The above two cases have reflected the changes in the thinking of judges and in judicial practice caused by the introduction of the principle of the best interest of the child.

China is faced some special challenges in the protection of the rights of the child and it is able to make further improvement in this field only by meeting these challenges. These challenges can be summarized as the followings:

Firstly, the change in population policy has brought about the increase of the demand for child-related social services. China began to comprehensively implement the policy that a couple may bear two children on October 29, 2015. This means that the Chinese Government, on the basis of adhering to the state policy of family planning, had abandoned the "one-child" policy that had been implemented for 35 years. Since the implementation of the "two-child" policy, there has been a marked increase in the total number of birth, but the expected baby boom has failed to arrive. Statistics show that, in 2017, the total number of birth in China was 17.23

⁸ Liu [5].

million, 630,000 less than in 2016; the birth rate was 12.43% as compared to 12.95% in 2016. In terms of the total number of birth, China had failed to reach the expected number of 18 million in 2016 and 2017, which means that China will join the ranks of low fertility countries. Nevertheless, the increase in the absolute number of the new born babies since the comprehensive implementation of the “two-child” policy has brought many challenges to families and society and pressures on such systems as material and child health care, health infrastructure and compulsory education. As a result, China is faced with many new problems in the protection of the children. The main manifestations of these problems are: the increase in the number of high-risk and elderly pregnant and parturient women; the increase in the rate of birth defect; shortage of urban maternal and child health care resources; the relative backwardness of the infrastructure of health service institutions; the tension between supply and demand of early childhood education resources; and the “deficit” of kindergartens in Beijing and other cities and difficulties encountered by some children in getting admitted into kindergartens. Currently governments at various levels are taking active measures to cope with the problems brought about by the increased number of new born babies.

Second, the care for left-behind children in rural areas is an important problem faced by China. The “Opinions on Strengthening Care and Protection of Left-behind Children in Rural Areas,” promulgated by the State Council in February 2016, define “left-behind children” as “those who are under the age of 16 and whose parents are both working outside their hometown or one parent is working outside the hometown and the other parent has no guardian capacity.” According to the statistics published by the Ministry of Civil Affairs, currently there are 9.02 million rural left-behind children in the whole country, over 700,000 in each of the following provinces: Jiangxi, Sichuan, Guizhou, Anhui and Henan. Among them, about 320,000 are left without a guardian. In terms of distribution, the number of left-behind rural children is 870,000 in eastern countries, consisting 9.65% of the total in the whole country, 4.65 million in central provinces, consisting 51.22% of the total in the whole country, and 3.52 million in western provinces, consisting 39.62% of the total in the whole country.⁹ Since the reform of the household registration system has not yet completed, the children of migrant workers are often left behind in rural areas. They often live with their grandparents or other near relatives. The quality of their upbringing and guardianship is often worrisome. In recent years, the central government has supported the implementation of the “Pilot Project on Community Care Services for Rural Left-behind Children” benefiting a large number of left-behind children. During the period between the end of March and the end of July in 2016, the Ministry of Civil Affairs, the Ministry of Education and the Ministry of Public Security jointly carried out a nation-wide investigation on left-behind children in rural areas, so as to have a comprehensive knowledge of the scale, distribution, structure of left-behind children

⁹ “Notice on the Basic Situation of the Investigation on Left-behind Children in Rural Areas and Explanations of the Special Program of Joint Guardianship of Left-behind Children in Rural Areas,” the official Web site of the Ministry of Civil Affairs, at <http://mzzt.mca.gov.cn/article/nxlsrtbjlxhy/zxbd/201611/20161100887430.shtml>. Last visited January 10, 2018.

in rural areas, gather such basic information as their family composition, daily care and education, refine the policy measures for their care and protection, strengthen the allocation and integration of care and service resources and provide data support for the establishment of a complete, accurate and dynamic database and sound system for the submission of information about left-behind children in rural areas. The All-China Women's Federation and local women's federations, government education and civil affairs departments have taken active measures to care for left-behind children in rural areas, enable them to have better life and education and prevent various kinds of safety risks. In the long run, the key solution to the problem of left-behind children in rural areas is to reduce their numbers and prevent children from being left behind in rural areas. Reuniting and living with parents is a right of the child as well as the best way for a child to grow up. The government should, on the one hand, encourage farmers to work or start a business in their hometown and, on the other hand, carry out reforms of the household registration system, the social security system and education system to create conditions to enable migrant workers to bring their children to the cities where they can conveniently live with their parents, receive education, medical and social services. The phenomenon of left-behind children will continue to exist in China for some period of time and the government and society should continue to take various measures for the care for and protection of left-behind children.

Third, the safety of children has become a problem of public concern. The safety of children involves all aspects of family and society. As far as family is concerned, prevention and prohibition of domestic violence is the focus of public attention. The adoption and implementation of the Anti-domestic Violence Law was a historical breakthrough, and the implementation of the law has become a new key to the fight against domestic violence and protection of the rights of the child. The fight against domestic violence requires not only the intervention by the government and public power, but also the enhancement of social consciousness and the participation and support by communities and families, so as to form a social synergy against domestic violence.

Food safety, environmental safety, traffic safety and personal safety in public places have also become a focus of public attention. In recent years, the safety situation of school buses and campus safety of primary and secondary schools have been continuously improved. A series of normative documents, including the Regulations on School Bus Safety Management, formulated by the State Council, and the Standard for Compulsory Education School Management, formulated by the Ministry of Education, have been promulgated since 2012. School bullying is a problem faced by many countries, including China. The Chinese Ministry of Education has paid high attention to this problem and adopted legal, educational and other measures to prevent and cope with school bullying. It is worth noting that child abuse incidents in kindergartens and other child institutions have often become the hotspots in media. Between January 2016 and November 2017, procuratorial organs in China had

approved the arrest of 69 kindergarten staff members and initiated public prosecution against 77 on charges of child abuse.¹⁰

Fourthly, the mental health of children has become a challenge that should not be overlooked. Children are susceptible to psychological disorders. With the development of times and society, the demand for mental health treatment and counseling for children has been continuously growing in China. Statistics show that the prevalence rate of psychological disorders among primary and secondary school students in China is 21.6–32%, higher than the world average of 15–20%. At least 30 million children at the age of 17 or younger in China are suffering from various kinds of emotional disorder or behavior problems. Left-behind children, single-parent children, only child in families and children with Internet addiction are more likely to be faced with psychological problems of varying degrees of severity. However, since China has a relatively late start and weak foundation in the research of child mental health, currently there are only less than 300 child psychiatrists in the whole country.¹¹ This means that current child mental health maintenance system and the system of psychological crisis intervention for children in public emergencies are far from meeting the actual need.

Fifthly, more importance needs to be attached to girls' rights. The outdated idea and corrupt custom of son preference in traditional Chinese culture still have certain influence in today's society. Chinese laws and policies clearly prohibit gender discrimination and discrimination against girls. The Chinese Government and various sectors of society have always attached importance to and advocated the care for and protection of girls, which is conducive to the creation of a social atmosphere of gender equality and to the eradication of outmoded conventions and customs against women. The state has continuously carried out special campaign against the practices of fatal sex identification for non-medical needs and sex-selective pregnancy termination and achieved marked results. In 2015, in terms of the gender ratio, for every 100 females, there were 113.5 males, the seventh narrowing of the gap in a row since 2009.

In conclusion, China has come a long way while at the same time is faced with new opportunities and challenges in the new era in developing the cause of protection of the rights of the child at the ideological, institutional and practical levels. Generally speaking, the rights of the child have been attached high importance to by the government and society, the relevant laws and institutions have been continuously improved, the participation of the whole society in the development of the cause of protection of children has been greatly promoted, and the rights of the child have been protected in a more comprehensive way.

¹⁰ "The Supreme People's Procuratorate: Zero Tolerance Towards Child Abuse: a Total of 69 Persons Have been Arrested Since Last Year," available at: <http://legal@people.com.cn/n1/2017/1228/c42510-29734388.html>. Last visited January 10, 2018.

¹¹ See "The Prevalence Rate of Psychological Disorders Among Chinese Children Exceeds the World Average," available at: <http://www.39yst.com/jibingku/article/96189.shtml>. Last visited January 10, 2018.

References

1. Kinney, A. B. (1995). Introduction. In A. B. Kinney (Ed.), *Chinese views of childhood* (pp. 11–12). University of Hawaii Press.
2. Liu, H. (2009). The Domestic Implementation of the Principle of the Best Interest of the Child. In H. Liu (Ed.), *The rights of the child and their legal protection* (p. 17). Shanghai People's Publishing House.
3. Liu, H. (2012, June 13). A new blueprint for the development of the human rights cause of the soft law nature. In *Legal Daily* (p. 7).
4. Liu, H. (2009). Domestic implementation of the principle of the best interest of the child. In H. Liu (Ed.), *The rights of the child and legal protection* (p. 25). Shanghai People's Publishing House.
5. Liu, H. (2010). National human rights action plan: A landmark document of human rights protection in China. In L. Lin (Ed.), *Report on the development of the rule of law in China: 2010* (pp. 47–56). Social Sciences Academic Press.

Rights of Ethnic Minorities



Today, there are about 3000 ethnic groups worldwide, distributed in over 200 countries and regions around the world. The overwhelming majority of countries are inhabited by multiethnic groups. China is a unified multiethnic country jointly created by the people of all its ethnic groups.

Since the founding of the PRC, some 56 ethnic groups have been identified and confirmed by the central government, namely the Han, Mongolian, Hui, Tibetan, Uyghur, Miao, Yi, Zhuang, Buyei, Korean, Manchu, Dong, Yao, Bai, Tujia, Hani, Kazak, Dai, Li, Lisu, Va, She, Gaoshan, Lahu, Shui, Dongxiang, Naxi, Jingpo, Kirgiz, Tu, Daur, Mulao, Qiang, Blang, Salar, Maonan, Gelao, Xibe, Achang, Pumi, Tajik, Nu, Uzbek, Russian, Ewenki, Deang, Bonan (also Bao' an), Yugur, Jing, Tatar, Derung, Oroqen, Hezhe, Monpa, Lhoba and Jino. The Han ethnic group has the largest population, while the populations of the other 55 ethnic groups are relatively small, and so the latter are customarily referred to as "ethnic minorities."

Since 1949, the total population of the ethnic minorities has been on a constant increase, comprising a rising proportion in China's total population. The five national censuses that have been conducted show that the total population of ethnic minorities was 35.32 million in 1953, consisting of 6.06% of the total population in the country; 40.02 million in 1964, consisting of 5.76% of the total; 67.30 million in 1982, consisting of 6.68% of the total; 91.20 million in 1990, consisting of 8.04% of the total; and 106.43 million in 2000, consisting of 8.41% of the total. The populations of the ethnic groups vary greatly from one to another. For example, the Zhuang has a population of 17 million, far more than that of the Hezhe, numbering only some 4000.

During the past 60 years since the founding of the PRC, especially since the reform and opening-up, the regional ethnic autonomy system has strengthened the basic pattern of unified multiethnic Chinese nation, safeguarded the fundamental interest of the great family of Chinese nation, promoted the relationship of supporting and helping one another and living, working and developing together in harmony among the 56 ethnic groups and upheld the good situation of stability, unity, prosperity and development in China. The safeguarding of the rights of the minorities is an

indispensable component of the human rights cause in China as well as the fastest developing field of human rights development with distinct Chinese characteristics.

The System of Regional Ethnic Autonomy as a Basic Political System in China

Various ethnic minorities in China have formed a unified multiethnic Chinese nation by living either in concentrated homogenous ethnic communities or mixed with each other.

Different from federal states, the CPC and the Chinese Government, based on national conditions and ethnic characteristics of China, implement a unitary state system. More specifically, China implements the system of regional ethnic autonomy with respect to ethnic minorities. Since the establishment of the Inner Mongolia Autonomous Regions in 1947, China has established five autonomous regions, 30 autonomous prefectures and 120 autonomous counties (banners). Of the 55 ethnic minorities in the country, 44 had their own autonomous areas. The population of ethnic minorities practicing regional autonomy accounts for 71% of the total population of ethnic minorities.

Some of China's ethnic groups inhabit vast areas, while others live in individual compact communities in small areas or live in mixture. In some cases, minority peoples can be found living in compact communities in areas inhabited mainly by Han people, while in other cases, the situation is the other way round. Many minority peoples have part of their population living in one or more compact communities, and the rest are scattered across the country. China's northwest and southwest are the two regions where minority peoples are most concentrated. Western China, consisting of nine provinces, three autonomous regions and one municipality directly under the central government, is home to 70% of China's minority population. The nine border provinces and autonomous regions are home to 60% of China's minority population. As China's economy and society continue to develop, the scope of minority population distribution is growing, and the scattered minority population across the country has been increasing continuously.

In September 2009, the Information Office of the State Council issued the white paper *China's Ethnic Policy and Common Prosperity and Development of All Ethnic Groups*, which gives a systematic review of the history of ethnic relationship and the ethnic minority policies and systems in China. It points out that, as early as some 4000–5000 years ago, five major ethnic groups—the Huaxia, Dongyi, Nanman, Xirong and Beidi—emerged on what is now the Chinese territory. Through continuous migration, living together, intermarriage and communication, the five ethnic groups became assimilated to each other in the course of their development and gradually became integrated into one, from which new ethnic groups continually sprang up. Although the origins and histories of ethnic groups in China are different,

the overall trend of their development was to form a unified, stable Chinese nation with multiple ethnic groups.

As early as in the pre-Qin Dynasty times before 221 BC, the concepts of “country” and “unification” had taken shape in the minds of the Chinese people. In 221 BC, the Qin Dynasty unified the country for the first time. It set up an administrative system of prefectures and counties and put the regions where minority peoples were concentrated, including today’s Guangxi Zhuang Autonomous Region and Yunnan Province, under its jurisdiction.

The subsequent Han Dynasty (206 BC–220 AD) further consolidated the country’s unification. It set up the Protectorate of the western regions in today’s Xinjiang Uyghur Autonomous Region and added 17 prefectures to govern the people of all ethnic groups there. In this way, a state with a vast territory, including today’s Xinjiang where the ancestors of the various peoples lived, emerged. The central governments of all dynasties following the Han developed and consolidated the unified multi-ethnic country. The Tang Dynasty (618–907) established the Anxi Protector-general’s Office and Beiting Protector-general’s Office to manage administrative affairs in the western regions, including today’s Xinjiang. The Yuan Dynasty (1206–1368), established by the Mongols, appointed aboriginal officials or *tuguan* (hereditary posts of local administrators filled by chiefs of ethnic minorities) in the Fu and Zhou of the southern regions where minority peoples lived in compact communities. The central government set up the Commission for Buddhist and Tibetan Affairs under it and three Pacification Commissioner’s Commanderies in Tibet, whereby Tibet was thenceforth brought under the effective administration of the central government of China. The Yuan also founded the Penghu Military Inspectorate for the administration of the Penghu Islands and Taiwan. The Qing Dynasty (1644–1911), founded by the Manchus, set up the Ili Generalship and Xinjiang Province in the western regions, appointed Grand Minister Resident in Tibet and established the system of conferring honorific titles on two Living Buddhas—the Dalai and Panchen—by the central government. In addition, the Qing court carried out a series of political reforms in southwestern China, including the policy of *gaituguiliu*, i.e., appropriating the governing power of local hereditary aboriginal chieftains and setting up the system of appointment of local administrators by the central government in ethnic minority areas. China’s territory in the Qing Dynasty was basically the same as that of today.

The white paper correctly points out that, despite short-term separations and local divisions in Chinese history, unification has always been the mainstream and trend in the development of the country. The central governments of the various periods, whether they were founded by the Han people or minority groups, considered themselves as “orthodox reigns” of China and regarded the establishment of a unified multiethnic state their highest political goal. The author of this book holds that the time-honored and splendid Chinese culture is built by all ethnic groups in China. Meanwhile, it also constitutes the cultural tie and basis of the unified multiethnic state of China.

The white paper especially points out that, for over a century from the first Opium War in 1840, China suffered repeated invasions and bullying by western powers. The Chinese people of all ethnic groups shared bitter hatred of the enemy and waged

relentless struggles for the defense of their state sovereignty, territorial integrity and national dignity. In the nineteenth century, Qing troops, supported by people of all ethnic groups in Xinjiang, wiped out the invading Yakoub Beg's forces of Central Asia's Kokand Khanate and defeated the British and Russian invaders' plot to split China. Tibetan people and troops dealt a heavy blow to British invaders at the Battle of Mount Lungthur in 1888 and the Battle of Gyangtse in 1904. In the War of Resistance against Japanese Aggression after Japan invaded China on September 18, 1931, the Chinese people of all ethnic groups shared bitter hatred of the enemy and fought dauntlessly and unflinchingly. Many anti-Japanese forces with ethnic minorities as the mainstay, such as the Hui People's Detachment and the Inner Mongolia's Daqingshan Anti-Japanese Guerrilla Contingent, made great contributions to China's victory in that war. Through its perseverance, the Chinese nation has upheld the national unity and dignity.

History has shown that the long-standing existence of a unified multiethnic state and the long-term exchange and integration between various ethnic groups in the economic, political and cultural fields have reinforced various ethnic groups' allegiance to the central government and their identification with Chinese culture and strengthened the cohesion force, vitality and creativity of the Chinese nation, giving rise to the unification and diversity of Chinese civilization. The author of this book holds that the cause of safeguarding the rights of ethnic minorities in China has been a long process of historical evolution and is based on profound cultural heritage.

Since the founding of the PRC in 1949, the CPC and the Chinese Government, by following the guideline of unity among all ethnic groups for common prosperity, drawing on China's historical experience and the useful practices of other countries, and proceeding from China's actual situation, have carved out a path for the successful solution of ethnic issues with Chinese characteristics, adopted ethnic policies featuring equality, unity, regional ethnic autonomy and common prosperity for all ethnic groups, thus forming a relatively complete ethnic policy system.

The system of regional ethnic autonomy is considered one of the fundamental constitutional systems in China because it is both an effective safeguard for the civil rights of ethnic minorities and an effective way of implementing the local governance system in multiethnic regions, as well as a nation-build mode by which the Chinese people, as a multiethnic nation, establish an harmonious ethnic relationship featuring equality, solidarity and interdependence and mold a socialist political community consisting of people of all ethnic groups.¹

The Constitution of the PRC contains provisions on ethnic issues in its Preamble and in Article 4 in the Chapter on General Principles. On March 11, 2018, the following new constitutional amendments relating to ethnic issues were adopted at the First Session of the Thirteenth NPC: In paragraph 11 of the Preamble of the Constitution, "Socialist relations of equality, solidarity, and mutual assistance have been established among all ethnic groups, and will continue to be strengthened" is amended to read: "Socialist relations of equality, solidarity, mutual assistance, and harmony have been established among all ethnic groups, and will continue to be

¹ Chang [1].

strengthened.” Correspondingly, the provision in paragraph 1 Article 4 of the Constitution, “The State protects the lawful rights and interests of ethnic minorities, and upholds and develops relations of equality, solidarity, and mutual assistance among all ethnic groups” is amended to read: “The State protects the lawful rights and interests of ethnic minorities, and upholds and develops relations of equality, solidarity, mutual assistance, and harmony among all ethnic groups.” The main consideration behind these amendments is that: “Enhancing and developing socialist ethnic relationships featuring equality, unity, mutual support and harmony has been an important idea repeatedly stressed by the CPC Central Committee with Xi Jinping as the core since the Eighteenth Party Congress. These amendments are conducive to fostering a strong sense of community for the Chinese nation and ensuring the peaceful coexistence, mutual assistance and harmonious development of all ethnic groups in China.”² The amended Constitution provides in Article 4 that:

“All ethnic groups in the PRC are equal. The State protects the lawful rights and interests of ethnic minorities, and upholds and develops relations of equality, solidarity, mutual assistance, and harmony among all ethnic groups. Discrimination against and oppression of any ethnic group are prohibited; any act which undermines the unity of the ethnic groups or instigates division is prohibited.

The state assists areas inhabited by minority ethnic groups in accelerating their economic and cultural development according to the characteristics and needs of the various minority ethnic groups.

Regional autonomy is practiced in areas where people of minority ethnic groups live in concentrated communities; in these areas organs of self-government are established to exercise the power of autonomy. All ethnic autonomous areas are integral parts of the PRC.

All ethnic groups have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs.”

The above provisions constitute the basic law basis of the system of regional ethnic autonomy. The Law of the PRC on Regional Ethnic Autonomy was adopted at the Second Session of the Sixth NPC on May 31, 1984. As the basic law on the system of regional ethnic autonomy in China, it covers a wide range of ethnic issues in the political, economic, cultural and social fields and is an important legal basis for the safeguarding of the rights of ethnic minorities. It defines the relationship between the central government and ethnic autonomous areas, as well as the relationship among different ethnic groups in ethnic autonomous areas. Its legal effect is not limited to ethnic autonomous areas; every individual and all state organs in China must abide by and implement this law.

Apart from the adoption of the Law on Regional Ethnic Autonomy, the state has authorized regional autonomous areas to adopt their local legislations, including separate regulations and regulations on the exercise of autonomy, and “legislative adaptations” of basic state laws such as the civil law, the criminal law and procedure laws, which, together with the Law on Regional Ethnic Autonomy, form an institutional system of regional ethnic autonomy. Citizens of various ethnic minorities, apart

² Wang [2].

from enjoying various rights of citizens provided for in the Constitution and ordinary laws, also enjoy special rights and interests brought about by special arrangements in accordance with the laws and regulations on regional ethnic autonomy.

In China, the equality among all ethnic groups is a constitutional principle. According to the 2009 white paper *China's Ethnic Policy and Common Prosperity and Development of All Ethnic Groups*, this principle includes three aspects: First, every ethnic group has equal political status, regardless of their population size, length of history, area of residence, level of economic and social development, differences in spoken and written languages, religious beliefs, folkways and customs; second, all ethnic groups in China have not only political and legal equality, but also economic, cultural and social equality; third, citizens of all ethnic groups are equal before the law, enjoying the same rights and performing the same duties.

Areas where the system of regional autonomy for ethnic minorities is practiced can be divided into three levels, namely autonomous regions, autonomous prefectures and autonomous counties, according to how big the population of the ethnic group is and how large the area it occupies. All areas where the system of regional autonomy for ethnic minorities is practiced are inseparable parts of the territory of the PRC. Organs of self-government of autonomous areas must safeguard the unification of the country and guarantee that the Constitution and laws are observed and implemented in those areas. State organs at higher levels and organs of self-government of autonomous areas should uphold and develop a relationship of equality, unity, mutual assistance and harmony among ethnic groups.

The self-government organs in ethnic autonomous areas are the people's congresses and people's governments of autonomous regions, autonomous prefectures and autonomous counties. In the people's congress of an ethnic autonomous area, in addition to the deputies from the ethnic group exercising regional autonomy in the administrative area, the other ethnic groups inhabiting the area are also entitled to appropriate representation. Among the chairman and vice-chairmen of the Standing Committee of the people's congress of an ethnic autonomous area shall be one or more citizens of the ethnic group exercising regional autonomy in the area. The chairman of an autonomous region, the prefect of an autonomous prefecture or the head of an autonomous county shall be a citizen of the ethnic group exercising regional autonomy in the area concerned. Other posts in the people's government of an autonomous region, an autonomous prefecture or an autonomous county shall rationally be assumed by members of the ethnic group exercising regional autonomy and of other minority ethnic groups in the area concerned. The cadres in the departments under the organs of self-government of an ethnic autonomous area shall rationally be chosen from among citizens of the ethnic group exercising regional autonomy and of the other minority ethnic groups in the area.

The organs of self-government of autonomous regions, autonomous prefectures and autonomous counties shall, in addition to exercising the functions and powers of local state organs, exercise the power of autonomy within the limits of their authority as prescribed by the Constitution, the Law on Regional Ethnic Autonomy and other laws and implement the laws and policies of the state in the light of the existing local situation. This power of autonomy includes.

1. Independent management of the ethnic group's internal affairs in its autonomous area

People of various ethnic origins in autonomous areas are entitled to vote and stand for election, as provided for in the Constitution and other laws, and, by electing deputies to the people's congresses at various levels and establishing self-government organs, exercise their democratic rights to manage the internal affairs of their own ethnic groups and their autonomous areas. The chairmen and vice chairmen of the Standing Committees of the people's congresses of all ethnic autonomous areas in China are citizens of the ethnic groups exercising regional autonomy in the areas concerned. The heads of all autonomous regions, autonomous prefectures and autonomous counties are all citizens of the ethnic groups exercising regional autonomy in the areas concerned.

To guarantee that organs of self-government fully exercise their political right to manage the internal affairs of their own ethnic groups in their autonomous areas, state organs at higher levels and organs of self-government in autonomous areas have taken all measures to train a large number of minority cadres and specialized personnel in the field of science, technology, operation and management.

Meanwhile, through electing deputies to the NPC from their own ethnic group, the ethnic minorities exercise the right to manage state affairs. From the First NPC to the present day, the proportion of deputies of ethnic minorities among the total number of deputies in every NPC has been higher than the proportion of their populations in the nation's total in the corresponding periods. Every ethnic group has its own NPC deputy or deputies. Ethnic groups with a population of more than one million have members in the NPC Standing Committee.

2. The power to formulate self-government regulations and separate regulations

The Law on Regional Ethnic Autonomy stipulates that: "Besides enjoying the same rights as enjoyed by other local state organs, people's congresses in autonomous areas have the right to formulate self-government regulations and other separate regulations in light of the particular political, economic and cultural conditions of the ethnic group in that autonomous area." The Law of the PRC on Legislation stipulates that: "Certain provisions of laws and administrative regulations may be adapted according to the characteristics of local ethnicities in the autonomous regulations and separate regulations" and that: "Where certain provisions of laws, administrative regulations, or local regulations are legally adapted in the autonomous regulations or separate regulations of an autonomous area, the provisions of the autonomous regulations or separate regulations shall apply only in the autonomous area."

3. Using and developing the spoken and written languages of the ethnic groups

According to the provisions of the self-government regulations for ethnic autonomous areas, organs of self-government of such areas shall use one or more commonly used local languages when they are performing official duties. If more than one language can be used for such official duties, the language of the ethnic group exercising regional autonomy should be used primarily. Autonomous areas such as

Inner Mongolia, Xinjiang and Tibet have formulated and implemented stipulations regarding the use and development of the spoken and written languages of their own ethnic groups and rules and regulations for the implementation of these stipulations.

In China, the spoken and written languages of ethnic minorities are widely used in the fields of justice, administration, education, political and social life and other areas.

4. Respecting and guaranteeing the freedom of religious belief of ethnic minorities

Most people of ethnic minorities cherish religious beliefs. In some ethnic groups, the majority of the people are adherents to a certain religion. For example, most Tibetans believe in Tibetan Buddhism, while the Hui and Uyghur peoples are followers of Islam. Organs of self-government in autonomous areas, in accordance with the provisions of the Constitution and relevant laws, respect and guarantee the freedom of religious belief of ethnic minorities and safeguard all lawful and normal religious activities of people of ethnic minorities.

5. Guaranteeing the rights and freedoms of all ethnic minorities to retain their traditional folkways and customs in daily life or when conducting social activities

The Chinese Government respects the habits and customs of minority people, respects and shows special consideration for their festivals, ensures the supply of special foods, supports and ensures the production and supply of special items and respects their marriage and funeral customs. Meanwhile, ethnic minorities are encouraged to adopt new, scientific, civilized and healthy customs in daily life, as well as in marriages and funerals.

6. Independently arranging, managing and developing economic construction

Organs of self-government of autonomous areas may, in accordance with legal provisions and characteristics of local economic development, rationally adjust the relations of production or economic structure of the said areas. Under the guidance of state planning, they shall independently arrange local capital construction projects in light of local financial and material resources and other conditions. They manage local enterprises and institutions independently. Ethnic autonomous areas can engage in foreign trade in accordance with the provisions of the state. They can also open ports for foreign trade after obtaining approval from the State Council. Autonomous areas enjoy state preferential policy treatment in their foreign trade. All ethnic autonomous areas have formulated their own plans, goals and measures for economic and social development by following the guidance of the overall state plan for national economic and social development, while at the same time taking into consideration local conditions.

Organs of self-government of autonomous areas protect and improve the local environment and prevent and deal with pollution and other public hazards.

Organs of self-government of autonomous areas have the right to manage local financial matters. All financial revenue belonging to ethnic autonomous areas under

the state financial system can be used by the organs of self-government without any restrictions. According to stipulations of the state, financial budgetary expenditure of autonomous areas should include some amounts as reserve funds, the proportion of which to the total expenditure is higher than those in other areas. In the process of managing financial budgets, organs of self-government of autonomous areas can independently arrange and use the extra in their revenue or funds saved from their expenditure. In implementing state tax laws, in addition to projects that enjoy tax reduction or exemption upon approval from the state, organs of self-government of autonomous areas can grant tax reduction and exemption to projects that need encouragement and preferential treatment from local revenue.

7. Independently developing educational, scientific, technological and cultural undertakings

Organs of self-government of autonomous areas determine the educational plan, the establishment of schools, school system, the forms by which schools are run, curricula, language of teaching and method of enrollment, in accordance with state policies and laws on education. Public ethnic primary and middle schools that provide boarding and allowances to most students are established in pastureland and mountainous regions where families normally have financial difficulties and live in scattered locations to ensure that the students can complete their compulsory education. Schools (classes) and other educational institutions whose students are predominantly from ethnic minority families should, if possible, use textbooks printed in their own languages and teach lessons in those languages. Chinese language courses shall be offered at different times of the primary school period depending on the particular situation, and the use of *putonghua* (standard Chinese) shall be propagated.

Organs of self-government of autonomous areas independently develop cultural undertakings with ethnic characteristics, including literature, art, news, publishing, broadcasting, movies and television programs; organize relevant departments to collect, edit, translate and publish historical and cultural books; protect scenic spots and historical sites, valuable cultural relics and other important items of the local cultural heritage and inherit and carry forward the traditional culture of the ethnic group(s); independently determine plans for the development of science and technology of their areas to disseminate knowledge of science and technology; independently determine development plans for their medical and health work and promote modern medicine as well as their traditional medicine; and make their own decisions when it comes to sports and the development of traditional ethnic sports activities.

Measures for the Protection of Rights of Ethnic Minorities

On the one hand, China stresses the exercise of the power of autonomy by organs of self-government in ethnic minority autonomous areas; on the other hand, it stresses the state's support to ethnic minority autonomous areas, including organizing and

coordinating paired-up assistance and support by economic developed provinces to underdeveloped ethnic minority areas.

The Constitution stipulates that “The state does its utmost to promote the common prosperity of all ethnic groups in the country.” The Law on Regional Ethnic Autonomy further clearly stipulates that higher-level state organs have the legal obligation to support and assist ethnic autonomous areas in speeding up their development.

The National Ethnic Affairs Commission is among the first ministerial-level organs established under the State Council in the PRC. The Commission was first established under the Central People’s Government on October 22, 1949. The official name of the Commission was changed from “Ethnic Affairs Commission of the Central People’s Government” to “Ethnic Affairs Commission of the PRC” at the First Session of the First NPC in 1954. It was abolished on June 22, 1970 and restored at the First Session of the Fifth NPC in 1978.³ Its main functions include drafting ethnic laws, regulations and policies, promoting and inspecting their implementation, protecting the legitimate rights and interests of ethnic minorities, liaising with autonomous minority areas, coordinating and guiding the implementation of the Law on Regional Ethnic Autonomy, coordinating and urging the relevant departments to perform their duties related to the ethnic work, promoting the implementation and integration of ethnic policies in the relevant fields of economic development and social cause and providing business guidance for the ethnic work within the government system.

The Chinese Government has mainly adopted the following measures for the implementation of the provisions relating to ethnic minorities in the Constitution and the Law on Regional Ethnic Autonomy:

1. Incorporating the plan for speeding up the development of ethnic autonomous areas into the national development plan

While formulating the national economic and social development plan, the central government gives full respect and consideration to the characteristics and needs of the ethnic autonomous areas and gives strategic prominence to speeding up their development in accordance with the overall arrangement and general requirements of ethnic development. To accelerate the development of China’s western regions and ethnic autonomous areas, the Chinese Government launched a grand strategy for the development of Western China in 2000.

2. Giving priority to and rationally arranging infrastructure projects in ethnic autonomous areas

When making arrangements for infrastructure construction and exploitation of resources in ethnic autonomous areas, the central government appropriately raises the proportion of investment and loans from policy banks and grants the local areas

³ See the official Web site of Ethnic Affairs Commission of the People’s Republic of China, at <http://www.seac.gov.cn>, last visited January 20, 2017.

reduction or exemption from supplementary funding according to their different conditions.

3. Strengthening financial support for ethnic autonomous areas

With the development of the national economy and the growth in financial revenue, governments at all levels have gradually increased transfer payments from the exchequer to ethnic autonomous areas. Through ordinary transfer payments from the exchequer, special-purpose transfer payments from the exchequer, transfer payments from the exchequer according to preferential policies regarding ethnic minorities and other ways, the central government has increased the financial input in ethnic autonomous areas to promote their economic development and social progress and gradually reduced the gap between ethnic minority areas and the more developed areas.

4. Attaching importance to ecological construction and environmental protection in ethnic autonomous areas

All the four key areas and four key projects included in the National Ecological Environment Construction Plan of the Chinese Government are in ethnic minority areas. The “Natural Forest Protection Project” and the projects for converting farming land to forestry and pasture are mostly in ethnic minority areas.

5. Adopting special measures to help ethnic autonomous areas develop education

The state helps ethnic autonomous areas universalize nine-year compulsory education and develop diverse forms of education. Ethnic autonomous areas are key target areas for the state’s plans to basically universalize nine-year compulsory education and basically eliminate illiteracy among the young and middle-aged population. The “Compulsory Education Project for Impoverished Areas” launched by the state is also geared to the ethnic minority areas in Western China. Furthermore, the state also establishes institutes of higher learning and opens classes and preparatory courses for ethnic minority students. Institutes of higher learning and polytechnic schools have lowered admission standards for ethnic minority students and give special preference to applicants from ethnic minorities with a very small population.

6. Strengthening assistance to impoverished ethnic minority areas

Since the mid-1980s, when the Chinese Government launched its large-scale poverty-alleviation drive in an organized and programmed way, ethnic minorities and areas they live have always been key targets of governmental aid.

7. Increasing input into social services in ethnic autonomous areas

The state has increased input into health services in ethnic autonomous areas, covering areas such as public health, basic rural health facilities, specialized hospitals, rural cooperative medical services and control of serious diseases, so as to raise the level of medical care for the people of those areas.

8. Assisting ethnic autonomous areas to open wider to the outside world

The state grants more decision-making power to production enterprises in ethnic autonomous areas in managing foreign trade and encourages them to export local products and implement preferential border trade policies. It encourages and supports the ethnic autonomous areas to give full play to their geographical and cultural advantages in expanding their opening-up to and cooperation with neighboring countries.

9. Organizing developed areas to give pair-up assistance to ethnic autonomous areas

The Chinese Government encourages better-off areas and ethnic groups to help those that are not well-off yet and attain common prosperity in this way. Since the end of the 1970s, the Chinese Government has organized more developed areas along the eastern coast to provide pair-up assistance to western areas and help ethnic minority areas develop their economies and public services.

10. Giving consideration to special needs of ethnic minorities in production and living

To respect the customs of ethnic minorities and to meet their needs for special necessities in production and living, the state has adopted a special policy for their trade and production of necessities.

In recent years, China has adopted many state policies to actively advance the ethnic affairs work and safeguard rights of ethnic minorities. All the three National Human Rights Action Plans adopted by the Chinese Government contain special sections on the protection of rights of ethnic minorities. In January 2017, the General Office of the CPC Central Committee and the General Office of the State Council jointly issued the Opinions on Handling Ethnic Affairs in Accordance with Law and Promoting Ethnic Unity, stressing the key role played by the law-based thinking and measures in the solution of ethnic problems and promoting the development of ethnic minority areas.

Every time State President and the Party General Secretary Xi Jinping delivers a televised New Year address to the nation on New Year's Day, and the photos on the bookshelves behind his desk always attract the people's attention. During the 2016 televised New Year address, some people discovered that in seven photos newly added to his office, three record the moments the Party General Secretary spent with cadres and masses of various ethnic groups in ethnic minority areas. This shows the importance attached by the Party General Secretary, the CPC and the government to the ethnic minority work.

State President and Party General Secretary Xi Jinping wrote the inscriptions "Strengthen Ethnic Unity and Build a Beautiful Tibet" and "Build a Beautiful Xinjing and Realize the Dream of the Motherland" on the congratulatory plaques in celebration of the 50th anniversary of the establishment of the Tibetan Autonomous Region and the 60th anniversary of the establishment of the Xinjiang Uygur Autonomous Region, respectively, in 2015, the inscription "Build a Beautiful Inner Mongolia and Jointly Realize the Great Chinese Dream" on the congratulatory plaque in

celebration of the 70th anniversary of the establishment of the Inner Mongolia Autonomous Region in 2017 and the inscription “Build a Beautiful Ningxia and Jointly Realize the Great Chinese Dream” on the congratulatory plaque in celebration of the 60th anniversary of the establishment of the Ningxia Hui Autonomous Region in 2018, thereby showing the loving care of the Chinese leader for the people of all ethnic groups in these autonomous regions.

From the above, we can see that the CPC and the Chinese Government attach high importance to ethnic issues, respect the characteristics of ethnic minorities and ethnic minority areas and effectively safeguard the rights of ethnic minorities in formulating and implementing relevant laws and policies and in promoting the comprehensive economic and social progress in ethnic minority areas and in the whole country.

Achievements and Challenges

Taking the Constitution and the Law on Regional Ethnic Autonomy as its basis, the development of the cause of protection of human rights of ethnic minorities has become an important bright spot in the development of human rights cause in China.⁴

The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015), issued by State Council Information Office on June 14, 2016, shows that China had taken measures to effectively protect the rights and interests of ethnic minorities and basically achieved the planned goals of the Action Plan.

With respect to political rights, the right of ethnic minorities to equal participation in the management of state and social affairs has been protected in accordance with the law. All 55 ethnic minority groups in China have representatives in the NPC. All the ethnic minority groups with a population of more than one million have members

⁴ See a series of white papers on the safeguarding the human rights of ethnic minorities in China issued by the Information Office of the State Council, including Tibet: Its Ownership and Human Rights Situation (September 30, 1992), Freedom of Religious Belief in China (October 30, 1997), New Progress in Human Rights in the Tibet Autonomous Region (February 28, 1998), Ethnic Minorities Policy and Its Practice in China (September 30, 1999), The Development of Tibetan Culture (June 30, 2000), Tibet’s March Toward Modernization (November 30, 2001), Ecological Improvement and Environmental Protection in Tibet (March 30, 2003), History and Development of Xinjiang (May 30, 2003), Regional Ethnic Autonomy in Tibet (May 31, 2004), Regional Autonomy for Ethnic Minorities in China (February 28, 2005), Protection and Development of Tibetan Culture (September 30, 2008), Fifty Years of Democratic Reform in Tibet (March 5, 2009), China’s Ethnic Policy and Common Prosperity and Development of All Ethnic Groups (September 27, 2009), Development and Progress in Xinjiang (September 29, 2009), Sixty Years Since the Peaceful Liberation of Tibet (July 11, 2011), Development and Progress of Tibet (October 23, 2013), The History and Development of the Xinjiang Production and Construction Corps (October 8, 2014), Tibet’s Path of Development Is Driven by an Irresistible Historical Tide (April 15, 2015), Successful Practice of Regional Ethnic Autonomy in Tibet (September 6, 2015), Historical Witness to Ethnic Equality, Unity and Development in Xinjiang (September 25, 2015), Freedom of Religious Belief in Xinjiang (June 2, 2016), Human Rights in Xinjiang—Development and Progress (June 5, 2017) and Cultural Protection and Development in Xinjiang (November 15, 2018).

on the NPC Standing Committee. In each of the 155 ethnic autonomous areas, among the chairpersons and vice chairpersons of the Standing Committee of the people's congresses, there are one or more citizens of the ethnic group or groups exercising regional autonomy in the area concerned, and the head of any autonomous region, autonomous prefecture or autonomous county (banner) has to be a citizen of the ethnic group exercising regional autonomy in the area concerned. The proportion of ethnic minority civil servants in the national total has surpassed that of the ethnic minority population in the national total.

Cultivation of ethnic minority talents has steadily progressed. Since 2012, relevant state organs have selected more than 2100 cadres from Western China and other ethnic regions and dispatched them to organs of the CPC Central Committee and the Central Government as well as to regions with a comparatively prosperous economy where they assume a temporary post for personal training and development.

The state has implemented "Light of the West", "The Special Cultivation Plan for Leading Professionals of Science and Technology in Ethnic Minority Regions" and other major talent development policies and projects, training more than 3000 technological professionals for Tibet, Xinjiang and other western regions. Medical undergraduate students expected to provide general practices in targeted ethnic minority regions are educated free of charge, with the government offering a subsidy at a standard rate of RMB 6000 yuan per student per annum (for 5-year undergraduate programs). Since 2013, the state has launched training projects in ethnic minority areas, including training of rural health workers in major practices, training of leading doctors in county-level hospitals and training of general practitioners in job transfers.

The right of ethnic minority groups to develop their economy has been guaranteed. Between 2012 and 2015, the central government arranged an ethnic minority development fund of RMB 14.824 billion yuan, in exclusive support of the actions to enrich border areas and their residents, efforts to develop ethnic minorities with a relatively small population, efforts to promote ethnic minority style villages and stockade villages and efforts to preserve and develop ethnic minorities' traditional handicraft. The state appropriated RMB 5.8 billion yuan from the central budget to help the construction of infrastructure, improvement of production and living conditions of the general population and the development of social undertakings in border regions and areas inhabited by people of ethnic minorities with a comparatively small population. The poverty-stricken population in the five autonomous regions, namely Inner Mongolia, Guangxi, Tibet, Ningxia and Xinjiang, and the three provinces, namely Guizhou, Yunnan and Qinghai, plummeted from 31.21 million in 2012 to 18.13 million in 2015. In the same period, the GDP of the eight ethnic minority regions increased from RMB 5850.5 billion yuan to RMB 7473.6 billion yuan, and the *per capita* disposable income of permanent residents in cities and towns soared from RMB 20,542 yuan to RMB 26,901 yuan.

The development of education among ethnic minorities has gained speed. Boarding school students from ethnic minority groups with a relatively small population who receive compulsory education in rural areas are provided with a living allowance at a standard rate of RMB 250 yuan per person per annum. The policy of free board, lodging and tuition is applied to children of farmers and herdsmen in

the Tibet Autonomous Region, and the standard of expenses has steadily increased with the current standard being RMB 3000 yuan per person per annum. Every year, a separate compulsory education aid of RMB 20 million yuan is set aside for the special purpose of subsidizing the living allowances of poverty-stricken students in boarding schools in the Tibet Autonomous Region. The government launched the standard high school construction project in ethnic minority regions with a weak educational infrastructure, with RMB 7 billion yuan appropriated from the central budget from 2012 to 2015 in support of the construction of 318 standard high schools in ethnic minority regions. The state continues to implement the preferential policy in favor of ethnic minority students in national university entrance exams. From 2012 to 2015, institutions of higher learning directly under the State Ethnic Affairs Commission planned a total enrolment of over 124,000 undergraduate students, including more than 46,000 from the eight ethnic minority regions. Institutions of higher learning affiliated with other central departments and local institutions of higher learning planned a total enrolment of 185,000 ethnic minority students in preparatory classes. Between 2012 and 2015, projects for the cultivation of high-level talents from ethnic minority groups recruited and trained a total of 16,000 postgraduate students and 4000 doctoral students.

Bilingual education has made steady headway. In 2015, schools that offered bilingual education, ranging from preschools to standard high schools, numbered more than 12,000 with 225,400 bilingual teachers and 3.4912 million students. Every year, more than 3500 types of secondary and primary school textbooks in ethnic minority characters are published with more than 100 million copies printed.

Teaching conditions in ethnic minority regions have been further improved. From 2012 to 2015, the central government allocated RMB 1.025 billion yuan in support of the middle and Western China projects and kindergarten teacher projects under the National Cultivation Plan in five ethnic autonomous regions, providing training to more than 870,000 teachers of secondary and primary schools and kindergartens. Normal universities directly under the Ministry of Education offer free education and provide 42,000 teachers to ethnic minority regions. "The Plan of Cultivation of Postgraduate Teachers in Rural Education" provided 4364 rural teachers to ethnic minority regions. Between 2011 and 2015, 528 projects on supporting education in Xinjiang were implemented, with an investment of RMB 10.8 billion yuan, and offering training to 130,000 teachers. 5300 teachers were selected and dispatched from other regions to Xinjiang for the projects. By the end of 2015, the number of various projects to support education in Tibet had reached 405, with the funding adding up to RMB 938 million yuan, providing training to 6829 people and dispatching 3585 people to Tibet to support the projects. The number of various projects to support education in Qinghai had reached 134, with a total funding of RMB 670 million yuan.

The cultures of ethnic minorities are protected. By the end of 2015, nine natural and cultural sites scattered in ethnic minority regions, including the Potala Palace, had been added to the World Cultural Heritage List. 14 ethnic minority arts, including Uygur Muqam of Xinjiang, had been added to the UNESCO's Representative List of Intangible Cultural Heritage of Humanity, and another four ethnic minority arts,

including Qiang New Year Festivals, had been added to the List of Intangible Cultural Heritage in Need of Urgent Safeguarding. Ten experimental zones for cultural protection in ethnic minority regions have been established. 479 ethnic minority heritage items and 524 inheritors from ethnic minority groups have been put, respectively, on the four national representative lists of intangible cultural heritage and the four national lists of representative inheritors of intangible cultural heritage that have been made public. The book series of explanatory notes on ancient books of ethnic minority groups, entitled *Synopsis on the General Catalogue of Ancient Books of Ethnic Minority Groups of China*, was published in 2014.

The spoken and written languages of ethnic minority groups have been protected and developed. Efforts have been made to promote the regularization, standardization and computerized processing of these languages. Projects have been initiated for the research and formulation of standards on the transliteration of people's names to Mandarin from Mongolian, Tibetan, Uyghur, Kazakh, Yi and other minority languages. Work has been done on the research and formulation of the table on commonly used Mongolian words, the standard on the translation between Tibetan and Latin and the standards on determining correct characters and pronunciations in modern Uyghur literature language. Databanks on minority languages on the brink of extinction have been set up. The Project on the Protection of Chinese Language Resources has been initiated and implemented. By the end of 2015, 54 ethnic minority groups were using more than 80 spoken languages of their own ethnic groups, and 21 ethnic minority groups were using 29 written languages of their own ethnic groups. Up to 200 radio stations nationwide broadcast in 25 ethnic minority languages. 32 publishing houses of various types publish books in ethnic minority languages. 11 film dubbing centers have been set up throughout the country, using 17 ethnic minority languages and 37 ethnic minority dialects. From 2012 to 2015, they finished the dubbing of a large number of movies into minority languages amounting to more than 3000 versions.

Education is the basis of development. China implements the system of free nine-year compulsory education at the national level and even longer period of free compulsory education in ethnic minority areas: It has realized 15-year free compulsory education in Tibet, 14-year free compulsory education in Xinjiang and 15-year free compulsory education for students taught in Mongolian language in Inner Mongolia.

In August 2015, the State Council promulgated the Decision on Expediting the Development of Ethnic Education. Since the Eighteen National Congress of the CPC, ethnic education in China has entered into a period of the largest investment, largest scale of construction and greatest improvement of school conditions. The central and local governments have invested a total of over RMB 400 billion yuan in a series of major projects, including the implementation of the Action Plan for Three-Year Preschool Education and renovation of school buildings in poor conditions in ethnic minority areas. The fiscal funding input in rural compulsory education in ethnic minority areas has been maintaining a 20% growth rate in recent years. Education informatization covers all remote rural ethnic minority areas, and the sharing of high quality educational resources has been initially realized.

Preschool bilingual education has always been the priority among priorities in the development of education in Xinjiang. In 2016, the Central Government allocated RMB one billion yuan to support Xinjiang in building, renovating or expanding 552 bilingual kindergartens. 4408 more rural bilingual kindergartens were built, renovated or expanded in Xinjiang in 2017. By September 2017, all the rural kindergartens planned or arranged for in Xinjiang had been built. The development of bilingual preschool education in Xinjiang is an epitome of the measures taken by China to strengthen the weak points in and comprehensively raise the level of ethnic education after the Eighteenth National Congress of the CPC.⁵

Due to the restrictions and influences of historical, geographical and other factors, central and Western China, where most ethnic minority people live, lag far behind the eastern coastal areas in development. In some ethnic minority areas, the people are inadequately fed and clothed, and while in some other areas, sustained development has been adversely affected by poor production conditions. The Chinese Government attaches great importance to these problems and is taking measures to solve them.

The Tibetan ethnic group has been a communal member of the Chinese nation sharing a common destiny, and Tibet has been an integral part of China ever since ancient times. In history, the Tibetan people have created a brilliant history and culture. However, the social system of Tibet remained one of theocratic feudal serfdom until the mid-twentieth century, with an economy that was extremely underdeveloped, a society that was conservative, closed and backward and many social customs and practices that were in serious violation of human rights, such as discrimination, torture and denying the rights and interests of women and children. Tibet first began to embrace modern civilization only after the PRC was founded in 1949. Having going through such important phases as peaceful liberation, democratic reform, establishment of the Tibet Autonomous Region and introduction of reform and opening-up, Tibet has not only established a new social system, but also witnessed great historical leap forward in its economy. However, there is a clique who cluster around the 14th Dalai Lama, representatives of the remnants of the feudal serf owners who have long lived in exile, driven by a political goal of “Tibetan independence” and a sentimental attachment to the old theocratic feudal serfdom. In recent years, having seen the failure of their attempts to instigate violence in support of their cause, they have turned to preaching a “middle way.” This “middle way” purports to advocate “compromise,” “concession,” “peace” and “non-violence”; in reality, it negates the sound path of development that Tibet has followed since the founding of the PRC and attempts to create a “state within a state” on Chinese territory, to be ruled by the 14th Dalai Lama and his supporters, as an interim step toward the ultimate goal of full independence.

The central government received 13 visits by private representatives of the 14th Dalai Lama between 1979 and 2002 and ten visits from 2002 to January 2010. To the disappointment of the central government, the Dalai Lama has remained committed to his “middle way,” which runs counter to the Constitution and aims at splitting the country. Moreover, he has planned and instigated activities of sabotage, including

⁵ Zhang [3].

violent disturbance during the Beijing Olympic Games, violence in Lhasa on March 14, 2008, and incidents of self-immolation.

Since the 18th National Congress of the CPC, the central leadership led by Party General Secretary Xi Jinping has reiterated that: “The central government has followed a clear and consistent policy towards the 14th Dalai Lama. Only when he makes a public statement acknowledging that Tibet has been an integral part of China since antiquity, and abandons his stance on independence and his attempts to divide China, can he improve his relationship with the central government in any real sense.”

Before the founding of the PRC in 1949, the ethnic groups of Xinjiang suffered oppression from invading foreign forces, the feudal exploiting class and the privileged religious hierarchy. At the bottom of the social ladder, they were deprived of basic human rights. In 1955, the system of regional ethnic autonomy was implemented in Xinjiang. Since 1978, when China launched its epoch-making reform and opening-up drive, a new historical phase has been ushered in the economic and social development of Xinjiang, and people of the various ethnic groups in Xinjiang have seen great progress in the protection of their human rights. In particular, since the 18th National Congress of the CPC was held in 2012, the CPC Central Committee with Comrade Xi Jinping at the core has worked hard to promote economic, political, cultural, social and ecological progress across the country. This means following the people-oriented principle and forging new ideas of innovative, coordinated, green and open development shared by all. Committed to the progress of Xinjiang and its people, the CPC Central Committee has pooled the strength of the nation to develop the region. In recent years, it has proceeded from the overall development of the causes of the party and state, constantly enriched and developed its core strategies for the development and governance of Xinjiang by making maintaining the social order and lasting political stability the overall objective of work in relation to Xinjiang. It has adhered to strategies such as governing Xinjiang in accordance with law, maintaining stability in Xinjiang through ethnic solidarity and being committed to the development of Xinjiang for a long time to come; keeping to the goal of all ethnic groups working together for common prosperity and development; making energetic efforts to press forward with the development of various undertakings in Xinjiang and focusing on the protection and improvement of the people's living standards and taking all necessary steps to ensure the people of various ethnic groups the equal right to participation and in development and equal access to the fruits of development.

Since the 1990s, the three forces (ethnic separatism, religious extremism and violent terrorism) working from bases both inside and outside China have planned and staged a series of incidents of terror and violence, such as explosion, assassination, poisoning, arson, assault and riot, in Xinjiang and elsewhere, causing great loss to the lives and property of innocent civilians of all ethnic groups and constituting extreme disregard and gross violations of human rights. Of them, the July 5 riot in Urumqi in 2009 killed 197, injured over 1700, and caused huge property damage. Again, the terrorist attack in Kashi's Shache County on July 28 claimed 37 lives and injured 13, with 31 vehicles being smashed or burned. The Central Government and

the Government of the Xinjiang Uygur Autonomous Region have severely punished violent and terrorist crimes in accordance with the law, thereby effectively checking the tendency of frequent eruptions of violent and terrorist attacks in Xinjiang and creating favorable environment and conditions for economic development, social progress and safeguarding of human rights in Xinjiang.

In a report delivered at the 19th National Congress of the CPC in October 2017, Party General Secretary Xi Jinping pointed out that: “National security is the cornerstone of peace and stability of our country, and safeguarding it is in the fundamental interests of the Chinese people of all ethnic groups.” He stressed that China will “improve our national security system, strengthen rule of law measures to enhance national security, and enhance our capacity for forestalling and fending off security risks. We must rigorously protect against and take resolute measures to combat all acts of infiltration, subversion, and sabotage, as well as violent and terrorist activities, ethnic separatist activities, and religious extremist activities. We will strengthen efforts to raise awareness of national security among all Party members and all the people, and create a strong synergy of the whole society to safeguard national security.”

China has accepted international standards on the rights of ethnic minorities, represented by the relevant UN human rights conventions. China is a state party to three UN conventions against racial discrimination, racial segregation and genocide:

- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD): The NPC Standing Committee adopted a decision to ratify the Convention on November 26, 1981, the Chinese Government deposited its letter of accession to the Convention at the UN on December 29, 1981, and the Convention came into force with respect to China on January 28, 1982. This is one of the first international conventions ratified by the PRC.
- The International Convention on the Suppression and Punishment of the Crime of Apartheid (the Apartheid Convention): China deposited at the UN its letter of accession to the Convention without any reservation on April 18, 1983, and the Convention came into force with respect to China on May 18 of the same year.
- The Convention on the Prevention and Punishment of the Crime of Genocide: China submitted its letter of rectification of the Convention to the UN on April 18, 1983, and the Convention came into force with respect to China on July 17 of the same year.

Of the above three conventions, CERD is one of the core human rights convention. A mechanism for the review of the implementation of CERD has been established under the UN framework. China attaches high importance to the ratification and implementation of relevant conventions and actively performs the corresponding international obligations. In accordance with the provisions of the relevant conventions, China has submitted to the relevant treaty bodies reports on the fulfillment of its obligations under CERD and the Apartheid Convention. It has also fulfilled its international treaty obligations through the adoption of legislative, judicial, administrative and other measures.

In August 2009, China received a review of its 10th to 13th consolidated report on its implementation of the CERD by the UN's Committee on the Elimination of Racial Discrimination. Mr. Duan Jielong, head of Chinese delegation, pointed out in the introductory remarks at the consideration that "the prohibition of all forms of racial discrimination is an important constitutional principle in China. Since its rectification of the Convention in 1981, China has made continuous efforts in prohibiting, preventing and punishing various acts of racial discrimination in the political, economic, social and cultural fields."⁶ The committee expressed its appreciation of China's timely submission of comprehensive and detailed reports and replies to the questions raised by the Committee in the consideration of these reports and affirmed China's policies, measures and achievements made in developing the economy in areas inhabited by ethnic minorities, enhancing the development of the smaller ethnic minorities, raising people's living standard, promoting health care and education and protecting the cultures of ethnic minorities.⁷

China has also actively participated in the election of the UN Committee on the Elimination of Racial Discrimination. At the 22nd Meeting of States Parties to the Convention on the Elimination of Racial Discrimination, held at the UN Headquarters in New York on January 17, 2008, Chinese expert Huang Yong'an was successfully elected as a member of the Committee by a vote of 139. He was reelected to the Committee by an overwhelm majority vote of 148 on November 30, 2011. In 1995, Ms. Li Duanyan, a former Chinese Ambassador to the Independent State of Samoa, was elected a member of the Committee for the term of 2016–2020.

Chinese Government has invited experts from the Committee on the Elimination of Racial Discrimination to visit China to learn about the situation of safeguarding of the rights of ethnic minorities in the country and to carry out on-site investigation and instruction, so as to increase the understanding of CERD by the government departments and the whole society and provide them with guidance on the domestic implementation of the Convention.

On October 1998, Mr. Yuri Rechto, a member of the Committee on the Elimination of Racial Discrimination, and his wife visited China at the invitation of Department of Treaty and Law of Chinese Ministry of Foreign Affairs. On October 8, the couple visited China Islamic Association and held a meeting with Mr. Wan Yaobin, the Vice Chairman and Secretary General of the Association.⁸

In September 2009, another member of the UN Committee on the Elimination of Racial Discrimination, Mr. Nourredine Amir, visited Sichuan Province in China. During the visit, Mr. Amir was briefed by the officials of the Ethnic Affairs Commission of Sichuan Province on the situation of implementation of the policy of regional ethnic autonomy and on the "May 12" Earthquake in Wenchuan. He pointed out that

⁶ "Introductory Remarks by H.E. Duan Jielong, Head of Chinese Delegation, at the Consideration of the Committee on Elimination of All Forms of Racial Discrimination on China's 10th to 13th Periodic Reports", in China Society of International Law (ed.), *Chinese Yearbook of International Law* (2010), Beijing: World Affairs Press, 2010, 306.

⁷ Wu [4].

⁸ Chang [5].

the equal treatment of ethnic minorities in Sichuan in the post-disaster reconstruction work was a good embodiment of the policy of ethnic equality in China.⁹

In October 2011, Mr. Wu Shimin, Vice Chairman of the Ethnic Affairs Commission of the PRC, held a meeting with Mr. Anwar Kemal, the chairman of the UN Committee on the Elimination of Racial Discrimination, and gave him an introduction to the situation of safeguarding of ethnic minorities in China at the levels of theories and principles, policies and measures and political system, pointing out that China has always adhered to the principles of ethnic equality, unity and common prosperity. The Central Government gives support to ethnic minority areas in matters such as taxation, finance and resource development, organized the more developed areas to provide paired-up assistance to ethnic minority areas and give members of ethnic minorities preferential treatments in education and school and college enrollment and protects their lawful rights and interests through legal systems and the system of regional ethnic autonomy at the institutional level.¹⁰

In 2006, the UN carried out reforms and established the Human Rights Council to replace the previous Human Rights Commission, thereby improving the position of and raised the importance attached to human rights work under the UN framework. The UN Human Rights Council established the Universal Periodic Review mechanism through which it carries out open and comprehensive review, on a periodic basis, of the fulfillment by each UN member states of their human rights obligations and commitments. China submitted its first report to the Human Rights Council on November 2008.

In October 2013, China successfully underwent its second universal periodical review by the UN Human Rights Council. In the National Human Rights Report submitted to the Council earlier that year, the Chinese Government introduced the measures taken and achievements made by China in recent years in safeguarding the rights of ethnic minorities.

In recent years, China has strengthened the safeguarding of the rights of ethnic minorities, adhered to the domestic policy of ethnic equality, unity and common prosperity and actively participated in international exchange and cooperation in the elimination of racial discrimination. Chinese Government has resolutely fought against acts aimed at splitting the country, including plots for the “independence of Tibet,” setting up of an “East Turkestan” in Xinjiang and the creation of a puppet state of “Manchukuo” in northeast China, hatched or engineered by ethnic separatists with the support of exterior forces, thereby upheld ethnic unity and territorial integrity, and safeguarded the public security and the safety of the life and property of the Chinese people of all ethnic groups. China’s ethnic minority policy is successful,

⁹ “Mr. Nourredine Amir, an Algerian Member of the UN Committee on the Elimination of Racial Discrimination, Visits Sichuan Province”, available on the Web portal of the Government of Sichuan Province, at: http://www.sc.gov.cn/scszfxgkml_2/sbgt_19/gzdt/zwdt/200909/t20090928_826169.shtml, last visited December 20, 2013.

¹⁰ “Mr. Wu Shimin Meets Mr. Anwar Kemal, the Chairman of the UN Committee on the Elimination of Racial Discrimination”, available at the Web site of the Ethnic Affairs Commission of the People’s Republic of China, at: www.seac.gov.cn/art/2011/10/21/art_20_139679.html, last visited December 20, 2013.

and its protection of the human rights of ethnic minorities is effective. The ethnic minority-related separatist plots, terrorist activities and other illegal violent acts in China should be paid attention to and guarded against. However, they have very limited influence and are far from the main aspect of the ethnic issue in China.

In conclusion, the Chinese nation has been a community with a shared future throughout history, in which all ethnic groups rise or fall together. The great unity among ethnic groups is where the vitality, strength and hope of the Chinese nation lie.

References

1. Chang, A. (2015) *The evolution of the constitutional system of a unified multiethnic country* (p. 234). China Democratic and Legal Publishing House.
2. Wang, C. (2018, March 6). Explanations of the (draft) amendments to the constitution of the People's Republic of China. In *People's Daily*.
3. Zhang, G. (2017, September 5). Comprehensively developing education and cultivating talents in ethnic minority areas. In *China Ethnic News* (pp. 1–2).
4. Wu, H. (2011, July 13). China's achievements in human rights protection attracts worldwide attention. In *People's Daily (Overseas Edition)* (p. 7).
5. Chang, Q. (1999). A Member of the UN Committee on the Elimination of Racial Discrimination Visits China Islamic Association, 1. *Chinese Muslims*.

The Rights of the Elderly



The twentieth century saw a revolution in longevity. Average life expectancy at birth has increased by 20 years since 1950–66 years and is expected to extend a further 10 years by 2050.¹ This shows, from one aspect, the huge achievements of the progress of human civilization, as well as the challenges they pose.

This demographic triumph and the fast growth of the population in the first half of the twenty-first century mean that the number of persons over 60 will increase from about 600 million in 2000 to almost 2 billion in 2050 and the proportion of persons defined as older is projected to increase globally from 10% in 1998 to 15% in 2025. The increase will be greatest and most rapid in developing countries where the older population is expected to quadruple during the next 50 years.² Such a global demographic transformation has profound consequences for every aspect of individual, community, national and international life. Every facet of humanity will evolve: social, economic, political, cultural, psychological and spiritual.

China is no exception: It is also faced with grim situation of aging population. It is generally acknowledged that a society becomes an aging society when the population of people aged 60 or above accounts for 10% or more of the total. By the end of 2017, the number of senior citizens above the age of 60 had reached 241 million, consisting of 17.3% of the total population. During the period from 1999, when China became an aging society, to 2017, the number of senior citizens had increased by 110 million. In 2017, the increase of the number of senior citizens exceeded 10 million for the first time in history. It is estimated that the number of senior citizens in China will reach the peak of 487 million, consisting 34.9% of total population in the country, by the year 2050.³ In the next few years, the aging of population will enter a period of rapid development, characterized by the acceleration of aging, senility and empty-nesting.

In both Chinese and foreign academic literatures, we can find many studies on the elderly, but very few on the rights of the elderly. In Chinese and foreign textbooks

¹ Report of the Second World Assembly on Ageing, UN Document A/CONF.197/9.

² Ibid.

³ Luo [1].

on international human rights law, it is very difficult to find special discussion on the rights of the elderly. This shows that the protection of the rights of the elderly is a new research field or a research field that has long been neglected.

At the First “Beijing Forum on Human Rights,” sponsored by China Society for Human Rights Studies and held in Beijing in April 2008, the author of this book pointed out that, although the Madrid International Plan of Action on Aging and other international documents that directly provide for the rights of the elderly are not legally binding, they reflect the latest progresses made by the international community in responding to the problem of aging population and safeguarding the rights of the elderly and, therefore, play a guiding role in and lay the foundation for the future drafting and adoption of higher-level legal documents. Especially, “whether the international community is able to draft and adopt a comprehensive international convention safeguarding the rights of the elderly or formulate special documents and establish special mechanisms in light of the prominent problems faced by developing countries when conditions become ripe is an issue worthy of attention, as well as a challenge and test faced by the international community.”⁴ It is gratifying that the drafting of the UN Convention on the Rights of the Elderly has been gradually placed on the agenda of the UN and the strengthening the protection of the rights of the elderly has become a trend of development of both in China and in the international community.

The New Concept of Protection of the Rights of the Elderly

One of the often discussed challenges faced by China is that more and more Chinese people are getting old before they have gotten rich. The population in China is aging rapidly, and the situation is grim. The aging of population can be understood as the increase of healthy long-living people in society and the growing demand for developing the “silver economy,” characterized by social participation and proper elderly care. How to respond to the aging of population? Professor Yang Yansui at the Institute for Hospital Management and School of Public Policy Management of Tsinghua University points out that China should comply with the laws of economy, drive “the two-horse carriage” of investment and consumption, adopt and cultivate the development strategy of “two demographic dividends.” Firstly, it should improve the human capital of the working population, extend the first demographic dividend by such measures as implementing the two-child policy, reforming the systems, mechanisms and evaluation methods of education, extending the working age of the population, improving labor remuneration and optimizing remuneration structure, increase national productivity and speed up economic development through the application of science and technology. Secondly, it should optimize the asset structure of the aging population, cultivate the second demographic dividend through such measures as health management, pension account and enable the elderly people

⁴ Liu [2].

to own a home, raise the purchasing power of the aging population and drive the sustainable economic development through consumption.⁵

The aging of population can be responded from different perspectives. Economists and scholars of social management observe and analyze this issue from the economic perspective, whereas legal scholars focus more on the analysis from the rights perspective. Of course, laws must have ideological and economic basis: A law is a mere scrap of paper if divorced from the national conditions.

Nevertheless, laws should not passively reflect social reality, but should instead actively advocate a new ideology or social behavior mode. In the process of coping with the aging of population, the law could confirm and advocate the good social culture of respecting, providing for and helping the elderly, embody and carry forward the excellent Chinese cultural tradition of filial piety or strengthen effective models of social experience in coping with the aging of population, e.g., new concepts or models brought about by new perspective of the human rights of the elderly.

Age discrimination, negligence, even violence faced by the elderly have multiple impacts on their human rights. The elderly are already in a vulnerable position in terms of physiology, psychology, capacity for act and economic conditions. The increasingly spreading and deepening of the aging of population has exacerbated the existing problems.

The Vienna International Plan of Action on Ageing, adopted at the first World Assembly on Ageing, held in Vienna, Austria on July 26—August 6, 1982, has dominated the thinking and direction of actions of the international community relating to the aging problem for the past several decades.

On 14 December 1990, the United Nations General Assembly (by resolution 45/106) designated 1 October of each year beginning from 1991 as the International Day of Older Persons.

On December 16, 1991, the UN General Assembly (by resolution 46/91) adopted the United Nations Principles for Older Persons and encouraged governments to incorporate a number of principles into their national programs whenever possible. These principles, including independence, participation, care, self-fulfillment and dignity, are directly related to the human rights of older persons.

In 1992, the UN General Assembly (by Resolution 47/5) decided to observe the year 1999 as the International Year of Older Persons. In 1997, the 52nd UN General Assembly decided that the International Year of Older Persons should begin on October 1, 1998. It called on people around the world to attach importance to the problem of aging population, required governments to establish or strengthen national institutions coordinating the response to the aging of population, adopted comprehensive strategies at the national, regional and local levels, incorporate the aging issue into social development plans and prepare for the coming of the aging society. The theme of the 1999 International Year of Older Persons was “towards a society for all ages,” which had the following four dimensions: lifelong individual development, multigenerational relationship, the relationship between aging of populations and development and the situation of older persons. The International Year

⁵ Yan [3].

of Older Persons is conducive to enhancing the awareness of, promoting research in, and strengthening policy actions on the aging issue, incorporating the issue into the work of various government departments and creating opportunities for people of all ages.

The Second World Assembly on Ageing was held in Madrid from 8 to 12 April 2002. It was attended by about 1500 representatives of 158 countries, UN organs and specialized agencies, inter-governmental organizations and NGOs. The assembly comprehensively reviewed the achievements of the First World Assembly on Ageing (1985), analyzed and discussed the aging issue under new situation and put forward the goal of creating "a society for all ages." Two documents, Political Declaration and Madrid International Plan of Action on Ageing, were adopted at the assembly.

There are a number of central themes running through the International Plan of Action on Ageing, 2002, including:

Fully realizing all human rights and fundamental freedoms of all older persons;

Achieving secure aging, which involves reaffirming the goal of eradicating poverty in old age and building on the United Nations Principles for Older Persons;

Empowering older persons to fully and effectively participate in the economic, political and social lives of their societies, including through income generating and voluntary work;

Providing older persons opportunities for individual development, self-fulfillment and well-being throughout life as well as in late life, through, for example, access to lifelong learning and participation in the community while recognizing that older persons are not one homogenous group;

Ensuring the full enjoyment by older persons of economic, social and cultural rights, as well as civil and political rights and the elimination of all forms of violence and discrimination against older persons;

Making commitment to gender equality among older persons through, inter alia, elimination of gender-based discrimination;

Recognizing the crucial importance of families, intergenerational interdependence, solidarity and reciprocity for social development;

Providing health care, support and social protection for older persons, including preventive and rehabilitative health care;

Facilitating partnership between all levels of government, civil society, the private sector and older persons themselves in translating the International Plan of Action into practical action;

Harnessing scientific research and expertise and realizing the potential of technology to focus on, the individual, social and health implications of aging, in particular in developing countries;

Recognizing the situation of aging indigenous persons, their unique circumstances and the need to seek means to give them an effective voice in decisions directly affecting them.

The Plan of Action makes arrangements for actions on three priority directions: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments.

The recommendations for action are organized according to three priority directions: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments. The extent to which the lives of older persons are secure is strongly influenced by progress in these three directions. The priority directions are designed to guide policy formulation and implementation toward the specific goal of successful adjustment to an aging world, in which success is measured in terms of social development, the improvement for older persons in quality of life and in the sustainability of the various systems, formal and informal, that underpin the quality of well-being throughout the life course.

On July 21, 2010, the UN General Assembly decided on its 65 session to establish an open-ended working group, open to all States Members of the United Nations, for the purpose of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures and requests the Secretary-General to provide all necessary support within existing resources for the duration of its mandate.⁶

The Open-ended Working Group on Ageing was established as a subsidiary organ of the UN General Assembly in December 2010. It held its first working session at the UN Headquarters from 18 to 21 April 2011. At the session, expert panelists considered the existing international and regional human rights framework and mechanisms, offered information about recent developments and identified and reflected on a number of gaps in the protection systems. The session showed broad agreement among Member States, non-governmental organizations, United Nations agencies and entities and independent experts on the need to discuss the protection and promotion of human rights for this large and growing sector of society. Overall, there was recognition of the particular nature of some human rights challenges faced by older men and women that had thus far not been adequately addressed. Some delegations called attention to the weaknesses of a fragmented system in providing effective protection. Furthermore, some delegations, non-governmental organizations and experts called for a binding instrument.⁷

The establishment of the UN Working Group on Ageing in December 2010 indicated that the drafting of a convention on the rights of older persons had already been put on the agenda of the UN. The formulation of the convention, which will make up the structural gap in international human rights law, is currently at the stage of conception and discussion.

In August 2012, the Office of the High Commissioner for Human Rights issued an analytical outcome paper entitled “Normative standards in international human rights law in relation to older persons,” calling for the development of the normative legal standards of human rights protection relating to older persons within a comprehensive

⁶ UN Doc. A/RES/65/182.

⁷ UN Doc. A/AC.278/2011/4.

framework recognizing the indivisible, interdependent and interrelated nature of the rights it seeks to protect.⁸

It should be said that all human rights make up an integral whole and all human beings should enjoy legally prescribed human rights. Older persons are no exception. The examination and analysis of the situations and needs of older persons from the rights perspective is aimed at constructively realizing the “elderly care” and “productive aging” often talked about by the Chinese people and enabling older persons to better enjoy their later years.

The Chinese Government attaches high importance to the safeguarding of the rights of older persons at both the domestic and the international levels and actively participates in the field of multilateral social development. In 1989, China was elected a member of UN Commission for Social Development for the first time and attended its 31 session. After that, it sends its delegation to attend every session of the Commission. China actively participated in the World Summit for Social Development, held in Copenhagen in March 1995, and contributed to the success of the summit.

On December 10–14, 2001, the first preparatory meeting for the Second World Assembly on Ageing was held in New York. At the meeting, the participants discussed such matters relating to the Second World Assembly on Ageing as the agenda, rules of procedures and the participation by NGOs and carried out negotiation on the Draft International Plan of Action on Ageing, 2002. The Chinese Government submitted its opinions on the revision of the Action Plan to the secretariat of the preparatory meeting.

The Second World Assembly on Ageing was held in Madrid on April 8–12, 2002. Two outcome documents were adopted at the Assembly: Political Declaration and Madrid International Plan of Action on Ageing. A Chinese delegation, headed by Mr. Ismail Amat, a State Councilor and the Executive Vice Chairman of China National Committee on Ageing, attended the Assembly. In a speech given at the Assembly, Mr. Amat pointed out that governments should, in light of their own national conditions, incorporate the aging issue into economic and social development plans, so as to enable older persons to enjoy the achievements of human progress and development together with other members of society; developing countries should make the elimination of poverty and improvement of medical social security as their priority targets, so as to improve the living standard and health condition of older persons; and developed countries should proceed from the interest of human progress and provide capital and technological support to developing countries to help them solve the aging problem. Mr. Amat also introduced the measures adopted and achievements made by China in the field of aging.

The Chinese delegation attended the 49th session of the UN Commission for Social Development, held in the UN Headquarters in New York on February 7–20, 2010. The delegation was headed by Mr. Wang Min, Deputy Permanent Representative of the Permanent Mission of the People’s Republic of China to the United Nations

⁸ Office of the High Commissioner for Human Rights, *Normative standards in international human rights law in relation to older persons*, Analytical Outcome Paper, August 2012, available at: <http://social.un.org/ageing-working-group/thirdsession.shtml>, last visited January 23, 2013.

and consisted of representatives from the Foreign Ministry, the National Development and Reform Commission, the Office of the National Working Commission on Ageing, China Disabled Persons' Federation, the State Council Leading Group Office of Poverty Alleviation and Development and China International Poverty-Reduction Center. The theme of the resolution adopted at this session was "Modalities for the second review and appraisal of the Madrid International Plan of Action on Ageing, 2002." The Chinese delegation participated in the group and plenary informal negotiations on the draft resolution.

The Chinese Government had always supported the establishment of Open-ended Working Group on Ageing under the UN General Assembly. At the First Working Session of the Open-ended Working Group on Ageing, held on April 18–21, 2011, the Chinese delegation expressed the following views on the protection of the rights of older persons:

"First, the principle of differentiation should be stressed. Countries are diverse in terms of economic and social conditions as well as historical and cultural traditions. Member states should address the aging issue on the basis of their national conditions and different development levels, make full use of existing mechanisms and resources and take practical measures to improve the well-being of older persons.

Second, the ageing issue should be viewed from a development perspective. Ageing is first and foremost a development problem. Economic and social development has always been and will remain the prerequisite for the well-being of older persons as well as the protection of rights for older persons. Member states should view the older person's rights in a comprehensive and balanced way. Attention to the rights of older persons as individuals should not be at the expense of their collective rights. Likewise, the protection of civil and political rights of older persons must go hand in hand with the protection of their economic, social and cultural rights.

Third, international cooperation on aging should fully accommodate the concerns of developing countries. Against the backdrop of accelerated aging around the globe, developing countries will face even greater challenges in coping with their aging issues. The international community should strengthen cooperation, pay attention to the unique circumstances and difficulties of developing countries and address their legitimate concerns. Developed countries should provide necessary financial and technical support to help developing countries tackle aging issues.

Fourth, the Working Group should carry out its work step by step within the scope of the mandate of the GA resolution. At present, major differences still exist regarding whether to draft a convention on the rights of the older persons. The Working Group should adhere to the fundamental principles reflected in UN development goals, policy documents and legal instruments concerning aging. The Working Group can discuss such basic topics as the aging trends of countries, the current situation of older persons' rights and the existing protection mechanisms, in order to summarize experiences, identify gaps and gradually garner consensus."⁹

⁹ "Statement by Ms. Zhang Dan, Counselor of the Chinese Delegation at the First Session of the Open-ended Working Group on Ageing," April 18, 2011, Web site of the Permanent Mission of the

It can be said that the above views expressed in a concentrated way China's positive attitude toward and pragmatic propositions on the formulation of Convention on the Rights of Older Persons. Among them, the propositions of treating two categories of human rights in a comprehensive way, fully respecting the level of economic development and the historical and cultural traditions of different countries, fully accommodating the concerns of developing countries and carrying out the work in a step-by-step way are in line with the trend and characteristics of the development of international human rights and reflect the aspirations of developing countries.

Mr. Wu Yushao, Deputy Director of the National Working Commission on Ageing, pointed out in a press conference on February 29, 2012, that one of the six key works of his Office in the year 2012, the key year in implementing of the "Program for the Development of Undertakings for the elderly during the Twelfth Five-Year Plan Period," would be making solid progresses in international exchanges and cooperation, strengthening the study on international issues of aging, actively participating in the formulation of the UN Convention on the Rights of Older Persons..." This demonstrated the importance attached to the drafting of the Convention by the relevant departments of the Chinese Government.¹⁰

China is the largest developing country in the world with a huge aging population, a permanent member of the United Nations Security Council, as well as a current member of the United Nations Human Rights Council. As such, it should actively participate, and in fact is already actively participating, in the design and drafting of the UN Convention on the Rights of Older Persons. Whether in terms of historical and cultural accumulation or in terms of rich domestic practice and the actual challenges currently faced by the country, China's participation in the drafting, adoption and implementation of the Convention is of great significance.

Measures Taken by China for the Protection of the Rights of Older Persons

In October 1999, the State Council established the National Working Commission on Ageing to plan, coordinate and guide the work in this field nationwide.

The National Working Commission on Ageing consists of over 30 unit members, including the Organization Department of the CPC Central Committee, the Publicity Department of the CPC Central Committee, Working Committee for Institutions Directly under the CPC Central Committee, Working Committee of Central State Organs, the Foreign Ministry, the National Development and Reform Commission, the Ministry of Education, the Ministry of Science and Technology, the Ministry of

People's Republic of China to the United Nations, at: <http://www.fmprc.gov.cn/ce/ceun/chn/hyyfy/t816413.htm>, last visited July 12, 2012.

¹⁰ "China is faced with serious problem of ageing of population with 185 million citizens over the age of 60, available at: <http://politics.people.com.cn/GB/1026/17256407.html>, last visited July 1, 2012.

Industry and Information Technology, the National Ethnic Affairs Commission, the Ministry of Public Security, the Ministry of Civil Affairs, the Ministry of Justice, the Ministry of Finance, the Ministry of Human Resources and Social Security, the Ministry of Natural Resources, the Ministry of Housing and Urban–Rural Development, the Ministry of Transport, the Ministry of Agriculture and Rural Affairs, the Ministry of Commerce, the Ministry of Culture and Tourism, the National Health Commission, the National Taxation Administration, the State Administration for Market Regulation, National Radio and Television Administration, General Administration of Sport, National Bureau of Statistics, National Healthcare Security Administration, China Banking and Insurance Regulatory Commission, Political Work Department of the Central Military Commission, All-China Federation of Trade Unions, the Central Committee of the Communist Young League, All-China Women's Federation and China National Committee on Ageing. The main functions and responsibilities of the Commission include: 1. To study and formulate development strategies and major policies for undertakings for the elderly and to coordinate and guide the relevant departments in implementing the development plans for undertakings for the elderly; 2. to coordinate relevant departments in carrying out the work of safeguarding the rights and interests of the elderly; 3. to coordinate relevant departments in carrying out macro-guidance and comprehensive administration and promote various activities beneficial to the physical and mental health of the elderly; 4. to guide, supervise and inspect the work relating to the elderly in various provinces, autonomous regions and municipalities directly under the Central Government; and 5. to organize and coordinate major activities relating to the elderly sponsored by the UN and other international organizations.

The office of the Commission is established inside the National Health Commission.¹¹ Since August 2005, the National Working Commission on Ageing has shared office with the China National Committee on Ageing. They jointly carried out their domestic work in the name of the Office of the National Working Commission on Ageing and international exchange and cooperation in the name of China National Committee on Ageing. More specifically, the main responsibilities of the Office of the National Working Commission on Ageing include: 1. to handle matters decided by the National Working Committee on Ageing; 2. to study and put forward guidelines, policies and plans for the development of the work for the elderly and formulate measures for their implementation; 3. to supervise and inspect the implementation of decisions of the Committee by relevant departments under the State Council and local governments and submit comprehensive reports on the supervision and inspection to the Commission; 4. to keep contact with and coordinate the work of various unit members of the Commission; 5. to carry out investigation and research on, collect and sort out information about and summarize and popularize advanced experiences in the work relating to the elderly; and 6. to undertake other tasks assigned by the Committee on Ageing.

¹¹ The official Web site of the Office of the National Working Commission on Ageing, at <http://www.cncaprc.gov.cn>, last visited November 20, 2018.

The current Chinese Constitution provides for the “fundamental rights and duties of citizens” in Chap. 2. Most of the provisions in this chapter are related to the rights and interests of the elderly, including gender equality, religious freedom and the freedom of the press. Among them the three provisions that are most directly related to the elderly are: Article 33 Paragraph 2, which provides that: “All citizens of the People’s Republic of China are equal before the law”; Article 33 Paragraph 3, which provides that: “The state respects and protects human rights”; and Article 45 Paragraph 1, which provides that: “Citizens of the People’s Republic of China have the right to material assistance from the state and society when they are old, ill or disabled. The state develops social insurance, social relief and medical and health services that are required for citizens to enjoy this right.” The Chinese Constitution provides for the principle of respecting and protecting human rights, stresses the equal enjoyment of legal rights by all citizens and directly provides for the right of the elderly to receive material assistance, thereby laying the constitutional basis for the safeguarding of the rights of the elderly.

The Law on the Protection of the Rights and Interests of the Elderly, adopted at the 21st meeting of the Standing Committee of the Eighth National People’s Congress on August 29, 1996, is a special law on the protection of the rights of the elderly in China. To keep pace with the times, the Amendments to the Law on the Protection of the Rights and Interests of the Elderly was submitted to the Standing Committee of the Eleventh National People’s Congress on June 26, 2012 and adopted on December 28 of the same year. Article 1 of the revised Law provides for the legislative purpose of the Law: “This Law is formulated in accordance with the Constitution to protect the lawful rights and interests of the elderly, develop the undertakings relating to the elderly, and promote the Chinese people’s virtues of respecting, providing for and helping the elderly.” Article 2 of the Law defines “the elderly” as citizens at or above the age of 60. Article 4 provides for the objective of the work for the elderly as to ensure that “the elderly are provided for, have access to necessary medical care, have opportunities for their own pursuits and studies and enjoy themselves.” Article 6 provides that: “People’s governments at all levels shall bring the undertakings related to the elderly into national economic and social development plans, include the funds for the undertakings related to the elderly into financial budgets, establish a stable fund guarantee mechanism, and encourage all sectors of society to make investment in these undertakings, so that these undertakings and the economy and society can develop in a harmonious manner,” thus embodying the demand for the mainstreaming of the protection of the rights of the elderly.

The amendments expanded the Law from the originally 6 chapters with 50 articles to 9 chapters with 85 articles. The thorough remolding of the law reflects the courage and wisdom of the whole society in responding to the aging of the population. The key points of the law include: 1. upgrading the active response to the aging of population into a long-term strategic task of the state; 2. attaching importance to the mental care of the elderly; 3. legal protection of the property right and other lawful rights and interests of the elderly; 4. incorporating the systems of disability care subsidy and old-age service allowance into law; 5. legal protection of the right of the elderly to

enjoy social services; and 6. Advancing the creation of an environment friendly to the elderly people.¹²

A series of national human rights Action Plans adopted by China are the practical examples of the treatment of the aging issue from the human rights perspective.¹³ These national Action Plans, formulated from the human rights perspective, contain a special section on “the rights of the elderly”. The National Human Rights Action Plan of China (2012–2015), promulgated by the Information Office of the State Council with the authorization of the State Council on June 11, 2012, was the second National Human Rights Action Plan promulgated by China. With regard to the rights of the elderly, the Action Plan stressed the implementation of the Law on the Protection of the Rights and Interests of the Elderly, gradual improvement of the social security system for the elderly, construction of the service system for the elderly and safeguarding of the lawful rights and interests of the elderly. Concrete measures included: improving the old-age social security system that covers both urban and rural residents; improving preferential treatment measures for the elderly; improving the support policy for home-based old-age care; implementing the Program for the Construction of Old-age Social Service System (2011–2015); improving the basic medical insurance for the elderly; enriching senior citizens’ cultural lives; promoting the construction of elderly-friendly cities and livable communities for senior citizens; and expanding channels of legal assistance for the elderly.

The National Human Rights Action Plan of China (2016–2020), promulgated by the Information Office of the State Council with the authorization of the State Council on September 29, 2016, provides for the “rights of the elderly” in a special section for the third time. The section provides for the general principle of action, namely: “The social value to respect, provide for and help the elderly shall be carried forward, and mutual care projects for the elderly shall be undertaken. A mechanism to address population ageing shall be developed to effectively protect the legal rights and interests of elderly people.” It stresses an elderly care civilization compatible with traditional Chinese culture, systematic response and upholding the rights and interests of the elderly by legal means and provides for the following concrete measures:

- An old-age service system, which is based on individual families, backed by communities, supplemented by different institutions, features a more complete range of functions, is of an appropriate scale, covers both urban and rural areas and combines medical treatment with endowment care, shall be established. The old-age service market shall be open fully, and various market players shall be encouraged to increase the provision of old-age services and products by multiple means, such as buying services and equity cooperation. By 2020, the old-age service facilities shall appear in over 90% of urban communities and 60% of rural communities.
- A system of old-age medical care service combining prevention with treatment and characterized by diversified development shall be improved. The accessibility

¹² See Wei and Xu [4].

¹³ See Liu [5, 6].

of healthcare services by the elderly and their health management rate shall be improved.

- A guardianship system for the elderly shall be set up and improved.
- Preferential treatment for the elderly shall be strengthened, and the social welfare system and assistance system geared toward the elderly shall be improved. A comprehensive subsidy system for the elderly advanced in age, in straitened circumstances or incapacitated, shall be established.
- Policies, regulations and normative standards in relation to livable environment for elderly people shall be established and improved. Continuous efforts shall be made to increase the barrier-free rate in newly-built public facilities and facilities geared toward elderly people and press forward with the development of a living environment friendly to the elderly people.
- Efforts shall be made to forge ahead with the construction of public cultural facilities for the elderly and encourage public cultural institutions to make more free programs available to elderly people and to increase the supply of public cultural products to this group.
- Efforts shall be made to integrate the functions of community old-age service facilities with those of community sports facilities, encouraging communities to organize physical activities appropriate for the elderly by using public service facilities and other venues.
- Greater encouragement shall be given to the development of social organizations for elderly people, the coverage of grassroots elderly people's associations shall be further expanded in urban and rural communities, and their will and level of participation in social development shall be enhanced.

On February 28, 2017, the State Council issued more detailed Program for Developing China's Old-Age Services and System Building during the Thirteenth Five-Year Plan Period.¹⁴ The program points out that the period covered by the Thirteenth Five-Year Plan will be decisive for finishing building a moderately prosperous society in all respects as well as an important strategic window period for the development and reform of undertakings for the elderly and construction of the elderly care system. The main characteristics of this period include:

- facing grim situation: it is estimated that, by the year 2020, the proportion of people aged 60 and above in China will reach 255 million, consisting about 17.8% of the total population; the population of elderly persons at advanced ages will reach 29 million; the number of elderly persons living alone and "empty nesters" will reach 118 million; the old-age dependency ratio will reach 28%; financial expenditure on the social security of the elderly will continuously grow; the aging of actual resident population in rural areas will probably further deepen.
- Obvious short boards: the existing laws, administrative regulations and policies on the elderly still need to be made more systematic, coordinate, pertinent and operable; the problem of unbalanced development of undertakings for the elderly

¹⁴ For the full text of the Program, see the official Web site of the National Working Commission on Ageing, at <http://www.cncaprc.gov.cn/contents/2/179240.html>, last visited January 25, 2018.

and the elderly care system in urban and rural areas is still prominent; insufficient supply, low quality and efficiency and shortage of personnel in the field of old-age service; the prominent imbalance between supply and demand in the market of products for the elderly; and imperfect work systems and mechanisms for, insufficient social participation in, and weak grassroots basis of elderly care.

- Favorable conditions: high importance attached to the development of elderly undertaking and establishment of an elderly support system by the CPC Central Committee and the State Council and clear demands made by the Outline of the Thirteenth Five-Year Plan on actively responding to the aging of population; steady and healthy economic and social development, the accelerated advancement of the supply-side structural reform; the continuous enhancement of the capacity for public service and guarantee of the people's livelihood; accelerated popularization and application of the results of scientific and technological innovation; the still relatively sufficient working-age population; and continuously rising of the enthusiasm of the public to participate in the development of undertakings for the elderly.

Against this background, the Chinese Government has adopted the guiding ideology, basic principles, development goals and concrete requirements on the development of the elderly undertaking and establishment of an elderly support system. The general goal is: markedly raising the overall level of the development of the elderly undertaking, establishing a fairly perfect elderly support system and laying a more solid social foundation for the timely, scientific and comprehensive response to the aging of population. Specifically, it includes: 1. establishing a better multi-pillar, full coverage, fair and sustainable social security system; 90% coverage of old-age insurance and steady over 95% coverage of basic medical insurance for urban employees and urban rural residents; effective connections between various social security systems, such as social insurance, social welfare and social assistance and public interest and charity undertakings; and effective guarantee of basic livelihood, basic medical treatment, basic care and other basic needs of the elderly; 2. further perfecting the elderly care service system that is based on home care, backed by the community and supplemented with institutions, and combines medical care with elderly care, and drastically raising the supply capacity, markedly improving the quality and optimizing the structure of the elderly care service system; increasing the convenience and attainability of multi-level and diversified old-age services: ensuring that the number of beds in government-run elderly nursing homes accounts for less than 50% of the total number of beds in local elderly nursing homes, the number of nursing beds is not be lower than 30% of the total number of beds in local elderly nursing homes and the health management rate of senior citizens aged 65 or above reaches 70%; 3. further improving the institutional system conducive to giving full play to the role of the government and the market: markedly increasing the level of rule of law, informatization, standardization and regularization of the development of the elderly undertaking and the establishment of an elderly support system; achieving marked results in the transformation of government functions, the

reform aimed at streamlining administration, delegating powers, improving regulation and upgrading services and raising the efficiency of administration; and fully unlocking market vitality and social creativity, diversifying the providers, enriching the content, and improving the quality of old-age services and products, and establishing and improving the new-type market regulation mechanism with credit as its core; 4. creating a social environment more conducive to the development of the elderly undertaking and the establishment of an elderly support system: enhancing the consciousness and willingness of the whole society to actively respond to the aging of population, conscientiously support the development of the elderly undertaking and the establishment of an elderly support system, carrying forward the social value of respecting, providing for and helping the elderly, advancing the creation of a safe, green and comfortable environment friendly to the elderly people, developing the cultural, sports and educational undertakings for the elderly, effectively protecting the lawful rights and interests of the elderly and continuously improving the conditions for the elderly to participate in social development.

This government work plan, which is crucial to promoting and safeguarding the rights of the elderly, especially stresses supervision and inspection, providing that the Office of the National Working Commission on Ageing, the Ministry of Civil Affairs and the National Development and Reform Commission should, in conjunction with other relevant government departments, strengthen the guidance of and supervision over the implementation of the work plan and timely report the progress of the work to the State Council. They must also construct public supervision platforms, improve the third-party assessment mechanism, carry out assessment on the implementation of the work plan in due time and publish the results of assessment.

The 19th National Congress of the Communist Party of China was held in Beijing on October 18, 2017. In the report delivered at the Congress, Party General Secretary Xi Jinping pointed out that: "As we respond proactively to population ageing, we will adopt policies and foster a social environment in which senior citizens are respected, cared for, and live happily in their later years. We will provide integrated elderly care and medical services, and accelerate the development of old-age programs and industries." These new arrangements and new demands, made by Party General Secretary Xi Jinping at the strategic height of securing a decisive victory in building a moderately prosperous society in all respects and building a great modern socialist country, have pointed out the direction for the development of the elderly undertaking and establishment of an elderly support system.

From the above we can see that, China has established special institutions both at the central and at the local levels, adopted special legislations and made special policy arrangements for the protection of the rights of the elderly, which is of great significance to the continuously raising the level of protection of these rights.

Achievements and Challenges

According to the Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012–2015), issued by the Information Office of the State Council June 14, 2016, China's achievements in protecting the rights of the elderly are prominently embodied in the following three aspects:

Firstly, the social security system for the aged is gradually being improved. The advanced-age allowance system was set up in 23 provinces (autonomous regions or municipalities directly under the central government). The old-age service allowance system for seniors in financial difficulty was implemented in 20 provinces (autonomous regions or municipalities directly under the central government). The nursing care allowance system for senior citizens with disabilities was launched in 8 provinces (autonomous regions or municipalities directly under the central government), while accident injury insurance for the elderly was introduced in 20 provinces (autonomous regions or municipalities directly under the central government).

Secondly, the old-age social service system is being rapidly developed. By the end of 2015, there were 115,000 institutions and facilities offering services to the elderly, an increase of 151% from 2012. Home-based care service facilities for the aged covered basically all urban communities and over 50% of rural communities. By the end of 2015, there were a total of 6.717 million beds for the elderly nationwide, averaging 30.3 beds for every thousand senior citizens, 60.9% and 40.5% higher than those in 2012, respectively, which far exceeded the planned targets.

Thirdly, senior citizens' cultural lives have been much enriched. By the end of 2015, there were 763,00 schools for the elderly across the country, 180 national-level and over 500 provincial-level community education pilot zones and demonstration zones, with the elderly accounting for over 60% of all participants in community education. There were 24 newspapers and 24 periodicals, especially for the aged. The state provided a variety of digital cultural resources suitable for the elderly through various channels including the National Cultural Information Resources Sharing Project, the National Digital Culture Network and Chinese Culture Network TV.

Recent years have seen a rapid development in elderly care institutions. According to the statistics published by the Ministry of Civil Affairs, by September 2017, the total number of elderly care institutions in China had exceeded 144,000 226% higher than the 44,300 in 2012. Moreover, the quality of the old-age service system has also been improving. With respect to standards on elderly care institutions and services, the Ministry of Civil affairs has adopted such ministerial rules as Measures for Licensing for Establishing Elderly Care Institutions and Measures for the Administration of Elderly Care Institutions, and a series of national standards, including Basic Standards on Elderly Care Institutions, Standards on Safety Management of Elderly Care Institutions and Basic Standards on Service Quality of Elderly Care Institutions.

In March 2017, the Ministry of Civil Affairs and other five departments jointly took special actions for the construction of service quality of elderly care institutions,

put forward nine key tasks and clearly set specific objective tasks at different stages from the end of 2017 to the end of 2020. In 2017, a special action of problem identification and resolution was carried out on over 40,000 elderly care institutions, in which about 197,000 hidden troubles had been discovered and dealt with and 2122 elderly care institutions had been banned, shut down, withdraw and merge in accordance with law.

Combination of medical care and elderly care is an important measure for improving the quality of the service of elderly care institutions. As a result of many years of vigorous promotion, 78.6% of elderly care institutions had provided different forms of medical services by the end of 2017, achieving 50% of the intended target ahead of schedule.

By reviewing and summarizing the past experience and looking forward to the future development trend, we can see that China is faced with both challenges and opportunities in the protection of the rights of the elderly.

Firstly, the excellent Chinese cultural tradition of respecting the aged and taking good care of children should be further promoted and carried forward.

The current Chinese Law the Protection of the Rights and Interests of the Elderly stresses in Article 1 that one of the purpose of the Law is to “promote the Chinese people’s virtues of respecting, providing for and helping the elderly” and provides in Article 38 Paragraph 2 that: “The tradition of mutual-aid among neighbours shall be promoted and neighbours of the elderly shall be encouraged to take care of and help the elderly in need.”

China is a country with an ancient civilization. The family is an important unit in Chinese traditional society and is still the main living environment and an important support of the livelihood of the elderly. Home-based care is one area that has neither been sufficiently covered by human rights instruments nor paid enough attention to by human rights bodies.¹⁵ It encompasses a variety of support services for older people who have difficulty caring for themselves for long periods of time, especially in relation to their health, personal or emotional needs. It might include, for example, support in activities of daily living like feeding, dressing, walking, bathing, using the bathroom, taking medication, shopping and coping with household tasks. On the one hand, the state should provide more substantive support and assistance to home-based care for the elderly; on the other hand, relevant international conventions could stress the important status and role of family in the life, especially in the support, of the elderly, and carry forward the excellent cultural tradition of valuing family and kinship relationship and respecting and loving the elderly.

In modern society, the pace of life has accelerated, the working population is highly mobile, and it becomes more and more common for parents to live in different places from their adult children. How to maintain and strengthen family relationship, especially the close spiritual and material linkage, between parents and their children, has become a challenge. The state and the government should carry out publicity and adopt social policies to encourage children to support and give sufficient spiritual comfort to their parents.

¹⁵ See the report of the United Nations High Commissioner for Human Rights, UN Doc. E/2012/51.

Secondly, respecting the dignity of older persons should be taken as the basis and core of the protection of the rights of older persons.

In international human rights instruments, “human dignity” undoubtedly occupies a prominent position. The United Nations Charter reaffirms in its Preamble “the faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” so as “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.” This was exactly the historical background of and basic motive force behind of the emergence international human rights law. The Universal Declaration of Human Rights, adopted by the UN on December 10, 1948, has been quoted by a large number of international human rights conventions and the constitutions of many countries. It points out in the beginning of its Preamble that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” The International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, adopted by the UN on December 16, 1996, both further reaffirm in their preambles that “human rights derive from the core value of the inherent dignity of the human person.” The Vienna Declaration and Program of Action, adopted at the Third World Conference on Human Rights on June 25, 1993, also declares in its preamble that: “all human rights derive from the dignity and worth inherent in the human person.”

The National Human Rights Action Plan of China (2012–2015), issued on June 11, 2012, also clearly stated in its preamble that China “safeguards the citizens’ economic, political, social and cultural rights and promotes social equity and harmony, so as to ensure that every member of society live a happier and more dignified life.”

The protection of the rights of the elderly is exactly based on the respect for the human dignity of the elderly and is in line with the fine Chinese tradition of respecting and caring for the elderly and the basic principles of international human rights law. Respect for the dignity of the elderly is the important basis and core of the work of protecting the human rights of the elderly. It is for this reason that the protection of the human rights of the elderly should not be simply understood as a mere matter of providing adequate food and clothing, making capital investment and constructing facilities. More importantly, attention must be paid to listening to the aspirations of the elderly, respecting their opinions and meeting their concrete demands.

Thirdly, the principle of equality and non-discrimination, especially gender equality, needs to be implemented in the protection of the rights of the elderly.

Equality is the cornerstone of every democratic society which aspires to social justice and human rights.¹⁶ One aspect of the universality of human rights is the universality of the subjects of human rights. In other words, human rights are the inherent rights of all human beings. Discrimination against older persons can be based on multiple grounds and older persons can be victims of multiple discriminations.

¹⁶ *UN Human Rights Fact Sheet No. 22, Discrimination against Women: The Convention and the Committee*, 1999, p. 1.

Age is an obvious ground for the discrimination against the older persons. Gender is another prominent ground of discrimination against older persons. These two kinds of discrimination are the two emphases of the protection of the rights of and elimination of discrimination against older persons in international human rights law. Moreover, older persons can also be subjected to discriminations based on health condition, place of origin, color, race, etc. China has the time-honored tradition of respecting, valuing, caring for and helping the elderly. However, discrimination against the elderly still exists in individual, cases and it constitutes a major obstacle and poses a serious challenge to the safeguarding of the rights of the elderly.

Fourthly, importance should be attached to the empowerment of the elderly.

As the ancient Chinese saying goes: "It is more helpful to teach people how to fish than to just give them fish." The realization of rights depends not only on the assistance from others, especially the "protection" and "giving" from the government, but, more importantly, on self-reliance and self-development, which provide fundamental solutions to the problem. Nobel Peace Prize winner Muhammad Yunus, who is known as the "Banker to the Poor," said that: "All people, whether men or women, want to earn their own living. This is an innate characteristic of human psychology. A person wins his dignity by mastering his own destiny and taking control of his own life."¹⁷ Older persons are no exception.

Through empowerment, the exercise of rights becomes closer and more pertinent to subjects of rights. Every individual, every family, every community or region and even every country have its unique conditions. Rights subjects need to have their wishes and demands valued and respected. They should be able play their role in society in the process of being concerned about and realizing their own rights. Empowerment embodies older persons' autonomous and participatory rights compatible with their age and capacity. Such rights should be respected by all members of society.

Fifthly, the human rights of older persons should be looked at from the viewpoint of the entire human life, as a matter that concerns every stage of human life.

Today, people often talk about giving older persons the opportunity to do what they can for the society, while enjoying their later years. Now the discussion on a higher retirement age has also become a hot topic of public concern.

The author of this book believes that a higher retirement age not only enables older persons to make more contributions to society, but also enable them to maintain their health, timely update their knowledge and capacity, and feel more dignity and happiness. It can be easily noticed that a person with healthy, happy and fulfilling childhood and middle age is more likely to have a meaningful elderly life. An older person is able to satisfy his or her needs in life and play a positive, rather than negative, role in society only if his or her rights and interests are safeguarded in an effective and comprehensive way. Therefore, the author of this book points out that the aging problem should never be treated as a problem that emerges only at the stage of old age, nor should it be treated simply as an economic issue. The state should increase the input to raise the level and expand the coverage of social security for

¹⁷ Anthony [7].

older persons, and, more importantly, pay comprehensive attention to the needs of older persons and safeguard their various rights in addition to their social rights.

Sixthly, the international community should pay more attention to and strengthen cooperation on the problems relating to the rights of older persons in developing and underdeveloped countries.

The aging of population is a global trend of social development and a global challenge faced by all countries in the world. However, developing and underdeveloped countries face more and tougher problems in safeguarding the rights of older persons, and these problems should be the focus of attention of the international community represented by the UN. International cooperation is the inevitable requirement of the internationalization of human rights protection as well as the inevitable result of the mainstreaming of human rights in international community. International cooperation is a two-way and reciprocal process from which both the developing and the developed countries can benefit. However, since the problems faced by developing and underdeveloped countries are more prominent and acute, they should be paid more attention to. In the process of actively implementing the UN 2030 Agenda for Sustainable Development and strengthening international exchange and cooperation in the field of human rights, China should enrich the content of the rights of older persons and draw on the experience of various foreign countries while contributing its own wisdom and strength to the realization of the rights of older persons in international community.

In a word, international organizations and national governments, including the Chinese Government, have already paid high attention to the global trend toward the rapid aging of population. The rights of older persons are also human rights. As holders of human rights, older persons are an important part of human rights undertaking that should not be neglected. The legislative and policy safeguards of the rights of older persons have been strengthened at both international and domestic levels, which is of great significance to advocating “the new outlook on aging” and the “new outlook on the human rights of older persons” and effectively promoting the safeguarding of the rights of older persons.

The fine Chinese tradition of respecting and caring for the elderly is worthy of being attached importance to and carried forward by China and even by the international community. Respecting the human dignity of older persons should become the basis of laws and policies. The human rights of older persons should be treated as a matter closely related to every stage of human life. The principle of equality and non-discrimination should be provided for and further elaborated on. While stressing international cooperation, the special needs of developing and underdeveloped countries should be paid attention to.

The Chinese Government attaches high importance to the development of the human rights undertaking. China is a country with a long history, excellent cultural tradition and a huge population, as well as a developing country profoundly affected by the obvious trend toward the aging of population. The safeguarding of the human rights of older persons has become an important aspect of the human rights undertaking in China.

References

1. Luo, Z. (2018). The number of senior citizens above the age of 60 in China has reached 241 million, making up 17.3% of the total population, available at: http://www.xinhuanet.com/healht/2018-02/27/c_1122457257.htm, last visited February 28, 2018.
2. Liu, H. (2009). Development and human rights: Reflections on the issue of the ageing population, 2. In *Human Rights*.
3. Yan, Y. (2017, November 16). The Chinese road to active ageing. In *Global Times* (p. 15).
4. Wei, M., & Xu, W. (2012). Legislation in focus: Six highlights of the draft amendments to the law on the protection of the rights and interests of the elderly, the web portal of the Central People's Government, at: http://www.gov.cn/jrzq/2012-06/26/content_2170322.htm, July 12, 2012
5. Liu, H. (2010). The National Human Rights Action Plan: A landmark document of human rights protection in China. In L. Li (Ed.), *Annual Report on China's Rule of Law No. 8 (2010)* (pp. 47–56). Social Sciences Academic Press
6. Liu, H. (2012, June 13) A new blue print for the development of human rights undertaking in China: A document of soft law nature. In *Legal Daily* (p. 7)
7. Anthony, Y. (2009). *Dialogues with world leaders* (p. 20). Shanghai People's Publishing House.

Rights of Persons with Disabilities



The recognition and the advocacy of rights of persons with disabilities, especially the strengthening and improvement of the international and domestic safeguarding systems for persons with disabilities, had a late start in the process of mainstreaming of human rights protection. The Millennium Development Goals, adopted at the United Nations Millennium Summit in September 2000, is the most important social development agenda of international community driven by the UN. It closely links development with human rights, but does not contain development indicators for the rights of persons with disabilities. We have also noticed that, it was not until December 2006—namely 60 years after the establishment of the United Nations—that the UN General Assembly adopted the Convention on the Rights of Persons with Disabilities—one of the last core human rights conventions drafted and adopted by the UN. The above two facts are obvious proofs that the rights of persons with disabilities had not been attached importance to until recent years.

Nevertheless, once the new understanding on the rights of persons with disabilities was formed, new international standards have been quickly established and attached importance to by UN member states and rapid progresses have been made in international and national legislations in this field through the advocacies by different international and domestic actors.

China is a big developing country with a huge population of persons with disabilities and a social security system which is still undergoing a process of reform and improvement. Against the background of economic development and social progress, the safeguarding of the rights of persons with disabilities in China is faced with both opportunities and challenges.

A prominent phenomenon is that China is an active advocator of the drafting of the UN Convention on the Rights of Persons with Disabilities, as well as a country that has actively implemented the Convention after its ratification and vigorously advocated the safeguarding of the rights of persons with disabilities. As such, it has adopted many special measures, made many achievements and gained many useful experiences in safeguarding the rights of persons with disabilities.

A New Understanding of the Protection of the Rights of Persons with Disabilities

In December 1979, the UN General Assembly adopted a resolution designating the year 1981 as the “International Year of Disabled Persons” (IYDP) and the corresponding Action Plan. The IYDP, which took “full participation and equality” as its theme, was aimed at putting issues relating to persons with disabilities on the agenda of the daily work of relevant UN organs.

In response to UNIYDP activities and to strengthen advocacy for the safeguarding of the rights of persons with disabilities, the Chinese Government established the “Chinese Organizing Committee for IYDP” and organized various forms of activities commemorating the IYDP in April and July of 1981. On November 10, 1981, the then the General Post Office of China issued a commemorative stamp for IYDP. The main picture in the stamp is a green earth, symbolizing peace and hope. At the bottom of the main picture are three hands in three different colors—yellow, white and black—symbolizing people of different colors in the world. At the center of earth is the logo of IYDP, embraced by two branches of olive leaf and held up by the three hands of different colors, symbolizing the hope and aspirations of persons with disabilities around the world for equal and full participation in social life. It is worth noting that, because the work for persons with disabilities had not yet been extensively carried out and the use of the term for persons with disabilities was not standardized at that time, the stamp continued to use a derogatory and discriminative Chinese term for persons with disabilities that had been traditionally used in Chinese society—“*canfeiren*” (“the invalid” or “wreck”). This term is abandoned in 1984 with the establishment of the China Foundation for Disabled Persons. Until today, the proper Chinese term to be used for persons with disabilities is still a controversial issue in China. The term “disabled persons” (*canjiren*) currently used in Chinese laws and policy documents still links a person with incompleteness or illness and therefore is inaccurate and inopportune. Some organs and individuals have turned to the term “the handicapped,” with the intention to indicate that such persons are not necessarily ill, but only face some obstacles in giving full scope to their capacity. Nevertheless, the term still makes people feel uncomfortable.

The legal concept of persons with disabilities is a key issue that determines who are able to enjoy the protection of laws and policies relating to persons with disabilities. In this respect, the UN Convention on the Rights of Persons with Disabilities (hereafter referred to as the Convention) provides a brand new international expression for the legal concept of persons with disabilities.

The Convention is the first comprehensive human rights convention adopted by the international community in the twenty-first century as well as the first human rights convention to be open for signature by regional integration organizations. The Convention is intended to be a human rights instrument reflecting social progress and development, indicating an “exemplary transformation” of the attitude towards and method of treating persons with disabilities.

The concept of “disability” is the basis of the Convention, as well as one of the focuses of attention of the Committee on the Rights of Persons with Disabilities (hereafter referred to as the Committee)—the treaty body responsible for the supervision over the international implementation of the Convention. The Committee has often expressed concerns about and dissatisfactions with both developing and developed countries in this respect, holding that state parties have failed to fully embody the spirit of the Convention and give a legal definition of disability consistent with the Convention.

The Preamble and Article 1 of the Convention describe the general characteristics of persons with disabilities: “Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others”. Article 1 Paragraph 2 explains that: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” The Preamble clearly points out that disability results from the interaction between persons with impairments and the attitude of others and the environment and that this reality leads to further barrier for persons with disabilities. The Convention stresses an interactive relationship, the barriers resulting from the interaction between the impairments of an individual and the attitude of others and the external environment. This idea echoes and reflects the new theory of the social model of disability put forward by British scholars on disability in the 1980s.¹

Article 2 of the Chinese Law on the Protection of Disabled Persons gives the following definition of disabled persons: “A disabled person refers to a person who suffers from the loss or abnormality of a certain organ or function, psychologically, physiologically or in human structure, and has lost all or in part the ability to normally carry out certain activities.” Since the 1960s, people have been questioning this model of defining disability from the perspective of illness and impairment and tried to replace it with a model of defining disability from the perspective of correction and rehabilitation.

Objectively speaking, whether under the new conceptual model or under the existing imperfect conceptual model, the operational definition of persons with disabilities is always linked to specific national conditions, which include both social concepts and understandings and the level of social and economic development and social security capability. There is actual no comparability between the domestic populations of persons with disabilities reported to the UN by different countries, because the concrete operational process of identification and confirmation of persons with disabilities in the legal and policy sense is a working process under different definitions and standards.

The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote the respect for their inherent dignity. The Convention

¹ Li [1].

provides for eight general principles, which further embody the new attitude towards and new method of treating persons with disabilities:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices and independence of persons;
2. Non-discrimination;
3. Full and effective participation and inclusion in society;
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The Convention embodies the new idea and new culture of protection of the rights of persons with disabilities. It is of positive practical significance for China to draw on the spirit and guiding principles of the Convention under the purpose and objective of safeguarding the rights of persons with disabilities and pay attention to the concept of persons with disabilities in the sense of social interaction at the legal and policy level. Outside the scope of law and policy, China should mainly improve the social perceptions and promote the change of the prejudice against and the stereotyped image of persons with disabilities, including intentional or unintentional discriminatory perceptions.

China has actively participated in and made important contributions to the international and regional cooperation in the protection of rights of persons with disabilities. Since the 1980s, China has supported and implemented the World Program of Action concerning Disabled Persons and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. China has actively contributed to the three Asian and Pacific Decade of Disabled Persons activities (1993–2022) and to the building of regional exchange and cooperation mechanisms for the undertaking for persons with disabilities.

Beginning from the 1990s, China had called for the adoption of the Convention in many international occasions and extensively exchanged opinions on this matter with Mr. Kofi Annan, the then UN Secretary General, the UN High Commissioner for Human Rights and EU officials in charge of the relevant affairs. In March 2000, the Chinese Government convened the World NGO Summit on Disability in Beijing. The Summit was attended by representatives of World Blind Union, the World Federation of the Deaf, Inclusion International, Rehabilitation International, Disabled Peoples' International as well as leaders or representatives of organizations in charge of affairs relating to persons with disabilities in over a dozen countries in various continents. The Beijing Declaration, adopted at the Summit, called on the international community and governments of various countries to pay more attention to the situation of persons with disabilities and called on the UN to adopt an international convention on the rights of persons with disabilities. The Declaration aroused huge international

response and played a positive promotional role in the initiation by the UN of the process of formulation of the Convention.

China is one of the sponsoring states of the Convention. In the drafting process, the Chinese Government attached high importance to the safeguarding and full realization of the rights of persons with disabilities and adopted a positive attitude toward the adoption of the Convention. In the end of 2003, China submitted to the UN its own draft of the convention, proposing that importance should be attached to both human rights and social development and to the unity of rights and measures. The Chinese Government also sent delegation to attend the above-mentioned meetings, calling for the drafting of a convention on the comprehensive protection and promotion of the rights of persons with disabilities in accordance with the spirit of the relevant resolutions of the Ad Hoc Committee of the UN General Assembly and by considering such aspects as social development, human rights and non-discrimination. Meanwhile, it pointed out that considerations should be given to different situations in different countries in the drafting of the specific provisions of the Convention and that emphasis should be laid on the progressive nature of the fulfillment of obligations under the Convention, so as to ensure that the Convention could be extensively accepted by the majority of countries in the world and play an effective role in protecting and promoting the rights of persons with disabilities.² This shows that China has closely combined development and human rights since the beginning of formulation of the Convention.

China played a constructive role in the formation of and in coordinating various parties in reaching a compromise on the text of Convention, thereby making important contribution in the adoption of the Convention. Because of its rich experience in the development of the undertaking for people with disabilities, China's proposals were very scientific and persuasive and have been embodied in the Convention. For example, China proposed that the Convention should be both a convention on the protection of the rights of persons with disabilities and a convention on promoting the development of undertaking for persons with disabilities, so as to realize the rights of persons with disabilities through the development of undertaking for persons with disabilities, and embody the realness and universality of human rights. China's proposal on emphasizing the right to subsistence and the right to development had also been accepted by many countries and made the Convention more comprehensive and complete.

The Convention was opened for signature at the United Nations Headquarters in New York on March 30, 2007. On the same day, Mr. Wang Guangya, China's Permanent Representative to the United Nations and Ambassador Extraordinary and Plenipotentiary, solemnly signed the Convention on behalf of the Chinese Government. Mr. Lu Shiming, Vice-chairman of the Executive Council of the China Disabled Persons' Federation (CDPF), attended the signing ceremony and delivered a speech on behalf of the Chinese Government at the high-level dialogue held on the afternoon

² China's Participation in the Negotiation and Drafting of International Human Rights Instruments, the Web site of the Chinese Ministry of Foreign Affairs, at: http://www.fmprc.gov.cn/web/wjb_673085/zzjg_673183/tyfls_674667/xwlb_674669/t129649.shtml, last visited April 30, 2017.

of that day. In the speech, Mr. Lu pointed out that China attached high importance to the safeguarding of the rights of 82.96 million persons with disabilities in the country and had made substantive contribution to the successful adoption of the Convention. He expressed the wish of the Chinese Government to strengthen friendly exchange and cooperation with other countries to promote the general improvement of the conditions of persons with disabilities around the world.³

China formally ratified the Convention on June 26, 2008, thus becoming the 33rd state party to the Convention, which became effective with respect to China on August 31 of the same year. In November of the same year, Mr. Yang Jia, Vice Chairman of China Association of the Blind, was elected with an overwhelming majority vote as a member of the Committee on the Rights of Persons with Disabilities. He was elected a vice chairman of the Committee in the next year and reelected in 2010.⁴ Currently, Mr. You Liang, Director of Liaison Division of International Affairs Department, CDPF, is serving as a member of the Committee. His term of office will expire on December 31, 2018.

Measures Taken by China for Protecting the Rights of Persons with Disabilities

The Chinese Government has always attached great importance to the protection of the rights of persons with disabilities and the ratification by China of the Convention has further promoted the development of the undertaking for persons with disabilities. To implement the general obligations provided for in the Convention, promote the full realization of all human rights and fundamental freedoms, especially the right to development, of persons with disabilities and to protect them from any discrimination based on disability, the Chinese Government has adopted a series of legislative, administrative and judicial measures. Various objective and principles of the Convention have been fully embodied and concretely implemented in the relevant laws, administrative regulations and policies in China.

At the government level, the Working Committee on Disability was set up under the State Council. Its main functions include: to coordinate the formulation and implementation of guidelines, policies, regulations and programs made by the State Council in relation to persons with disabilities; to coordinate the solution of major problems in the work relating to persons with disabilities; and to organize and coordinate major relevant UN activities in China. The concrete work of the Committee is undertaken by China Disabled Persons' Federation.

CDPF plays an important role in the development of the undertaking for persons with disabilities and is the key to the mechanism for safeguarding the rights of persons

³ "China Signs the Convention on the Rights of Persons with Disabilities," the Web site of the Permanent Mission of the People's Republic of China to the UN, at: <http://www.fmprc.gov.cn/ce/ccun/chn/zgylhg/jsyfh/shfz/t307719.htm>, last visited April 30, 2017.

⁴ Yang [2].

with disabilities.⁵ Established in March 1988, CDPF is a mass organization confirmed by law and approved by the State Council. Composed of persons with disabilities, their relatives and friends and personnel working for them, it is a unified organization for persons with all kinds of disabilities in the whole country. Its purposes are to foster humanitarianism across society as a whole, to develop the undertaking for persons with disabilities, to promote the full participation of persons with disabilities in society equally with others and to ensure that persons with disabilities benefit from the material and cultural achievements of society. And, it performs three key functions: to represent the common interests and safeguard the rights of persons with disabilities; to provide comprehensive services to persons with disabilities; and to perform legally prescribed functions, undertake tasks given by the central government, and manage and develop undertakings for persons with disabilities.

The highest organ of power of CDPF is the National Congress, which convenes every five years. During the period when the National Congress is not in session, the Presidium elected by the National Congress is responsible for implementing the resolutions of the National Congress and lead the work of the CDPF in the whole country. Local branches of CDPF have been established according to the administrative divisions of the state, associations or groups of persons with disabilities have been established in urban neighborhood committees, villagers' committees, enterprises and public institutions in which there is a concentration of persons with disabilities. CDPF organizations at various levels have become important subjects in promoting the development of the undertaking for persons with disabilities in China.

China has adopted rich legislations on safeguarding the rights of persons with disabilities. Apart from the confirmations of the rights of citizens in the Constitution, China has adopted a special law on the rights of persons with disabilities. In April 2008, China amended the Law on the Protection of Disabled Persons. The amended Law puts forward for the first time the concept of "prohibition discrimination based on disability," highlights the idea of "taking the rights of persons with disabilities as the starting point," clearly stipulates that the state ensures the disabled persons' right to enjoy rehabilitation services, right to equal education, right to work, right to equal participation in the cultural life, and various social security rights, enriches the content of creation of a barrier-free environment for disabled persons' equal participation in the social life, and strengthens the legal responsibilities for the infringements upon the rights and interests of persons with disabilities.

To implement this law, China has adopted a series of supporting administrative regulations, including Regulations on the Education of Persons with Disabilities, Regulations on the Employment of Persons with Disabilities and Regulations on the Building of an Accessible Environment, which contain more specific and detailed provisions on the rights of persons with disabilities to education, employment, rehabilitation and barrier-free environment.

Apart from legislation, the Chinese Government has also adopted a large number of policy documents to implement the provisions of the relevant legislations.

⁵ The official Web site of China Disabled Persons' Federation is <http://www.cdpf.org.cn> and the English version of the Web site is <http://www.cdpf.org.cn/english/>, last visited January 25, 2018.

The year 2008 marked a turning point in the work of social security for persons with disabilities. Before that year, social security in China mainly stayed at the level of social assistance, which was mainly the responsibility of the civil affairs departments and depended heavily on the level of local economic development and the importance attached by local governments to the welfare of persons with disabilities and, therefore, should be seen as a charity model of social security. The situation has changed after 2008. In 2008, the CPC Central Committee and the State Council jointly issued the Opinions on Promoting the Undertaking for Persons with Disabilities, and in 2010, the General Office of the State Council forwarded the Guiding Opinions on Accelerating the Building of the Social Security and Service Systems for People with Disabilities, jointly adopted by CDPF, the Ministry of Education and the Ministry of Civil Affairs. The government began to build a social security and service system for people with disabilities. Characterized by the development of social security and social welfare centered on basic elderly care and basic medical care under the leadership of local CDPF organizations and on the basis of satisfying the basic need for social assistance, it can be seen as a welfare model of social security.⁶

The three national human rights plans issued by the Information Office of the State Council, namely National Human Rights Action Plan of China (2009–2010), issued in April 2009, National Human Rights Action Plan of China (2012–2015), issued in June 2012 and National Human Rights Action Plan of China (2016–2020), issued in September 2016, all contain special chapters or sections on and set phased goals for the safeguarding of the rights of persons with disabilities.

The third national human rights Action Plan for the period 2016–2020, which is currently under implementation, stresses that: “The system of the protection of the rights and interests of the disabled shall be improved, the level of social security and basic public services for the disabled shall be raised and efforts shall be made to bring persons with disabilities more opportunities to participate in social life on an equal footing with other members of society and protect their human rights.” It provides the following concrete measures:

- A system shall be fully implemented to provide living allowances to financially challenged disabled people and nursing allowances to the severely disabled population. Families with disabled members that meet certain requirements and the jobless and severely disabled adults who rely on their families for support are eligible for subsistence allowances. More medical rehabilitation services shall be brought into the scope of basic medical insurance. A system shall be established to provide rehabilitation and assistance to disabled children. Places where conditions permit shall subsidize the financially challenged and severely disabled people in their purchase of basic assistance devices. The basic housing needs of the disabled shall be first guaranteed. Break-even security shall be offered for the basic livelihood of the disabled.

⁶ Zhang and Jiang [3].

- The state shall provide rehabilitation services to the disabled. It shall adopt and implement the Regulations on Disability Prevention and Rehabilitation. Basic and targeted rehabilitation services shall be provided to the disabled, with the focus on disabled children and the identified disabled population. The development of professional rehabilitation institutions at provincial, city and county levels shall be improved. The state shall support second-grade general hospitals in their efforts to transform themselves into general hospitals mainly focusing on rehabilitation treatment or specialized rehabilitation hospitals. A two-way referral system shall be set up between medical institutions and specialized rehabilitation institutions for the disabled. Community-based rehabilitation services for the disabled shall be extensively provided. The state shall build rehabilitation colleges to train professional rehabilitation personnel.
- Community-based rehabilitation services shall be promoted for mental patients. By the year 2020, there will be one mental health social welfare center at each prefecture-level city, over 70% of counties (cities and districts) will have a community-based rehabilitation institution for mental disorders or entrust social organizations to provide rehabilitation services through services purchased by the government.
- The education level of the disabled shall be raised. Improvement shall be made of the planning and distribution of special education schools, as well as the support system that enables children with disabilities to study in regular classes, so as to provide inclusive education for them, i.e., 12-year free education covering nine-year compulsory education and three-year senior high-school education. A system shall be established in which home teaching is offered to severely disabled children.
- Policies to support the disabled to find jobs and startup businesses shall be improved, so shall the system of providing jobs to the disabled by public institutions. Policy support shall be strengthened to the disabled in starting up their own businesses or getting jobs in flexible ways, getting supported employment or getting Internet-based employment. Efforts shall be intensified to strengthen employment training and services for the disabled, providing practical technical training to 500,000 impoverished disabled people in the rural areas of central and western China, and ensuring that an additional 500,000 disabled people get employed in urban areas.
- Protection of cultural rights and interests of the disabled shall be strengthened. Efforts shall be made to beef up investment in cultural and entertainment equipment appropriate for the disabled in public cultural centers. Public libraries where conditions permit shall all have reading areas or reading rooms for the disabled. The publication of reading materials for the visually handicapped and books about the disabled people shall be encouraged. The National Sign Language and Braille Standardization Action Plan (2015–2020) shall be implemented.
- All-round endeavor shall be made in the building of barrier-free environments for the disabled. Barrier-free facilities shall be constructed on newly built (renovated or expanded) roads, in buildings and residential districts, or be added to existing facilities. Renovation shall be carried out to make barrier-free facilities available

on the Web sites of government and public service agencies. Measures shall be taken to make food and drug information identifiable without obstruction, add subtitles or sign language to movies and TV programs, urge telecommunication service operators and e-commerce enterprises to provide barrier-free information to the disabled and to improve the driving experience of the disabled. In addition, efforts shall be stepped up to carry out renovation of barrier-free facilities for impoverished families with members suffering from severe disabilities.

- The system by which the disabled get legal aid and services and judicial relief shall be improved. Illegal or criminal activities encroaching upon the legitimate rights and interests of the disabled shall be seriously punished. Channels through which the disabled make their voices heard about their rights and interests shall be smoothed out.

The Chinese Government has adopted a large number of proactive policies for persons with disabilities. In March 2008, the CPC Central Committee and the State Council issued the Opinions on Promoting the Development of the Cause of Disabled Persons, which provide for the general idea, guiding principles and objective tasks of and major measures for protecting the rights and interests of persons with disabilities. In March 2010, the General Office of the State Council forwarded the Guiding Opinions on Accelerating the Building of a Social Security System and Service System for the Disabled, requiring that a basic framework of social security system and service system for the disabled should be established by the year 2015 and that “the two systems” should be established to enable persons with disabilities to enjoy basic public services, basic livelihood guarantee, basic health care and rehabilitation service and markedly improve the quality of their cultural life and education and realize their fuller employment by the year 2020.

It is worth mentioning that, to guarantee the implementation of state laws and policies on persons with disabilities, effectively improve their living conditions and realize their basic rights, the Chinese Government has implemented six “outline for the development of the undertaking for disabled persons under Five-Year Plans.” The Outline for the Development of the Undertaking for Disabled Persons under the Eleventh Five-Year Plan (2006–2010) fully embodied the various principles established by the Convention, made comprehensive plans for various kinds of work relating to persons with disabilities, including the rehabilitation, education, employment, poverty alleviation, social security, rights protection, culture and sports, construction of barrier-free facilities and building of organizations of persons with disabilities.

In June 2011, the State Council Working Committee on Disability adopted the Outline for the Development of the Undertaking for Disabled Persons under the Twelfth Five-Year Plan and, upon the approval by the State Council, issued it to various local governments and various departments under the State Council for implementation. The Outline stressed that, during the period of the Twelfth Five-Year Plan, China would develop the undertaking for persons with disabilities in accordance with the principles of “leadership by the government, participation by society, support by the state, promotion by the market, overall planning, classified guidance and being

based on the grassroots and people-oriented” and further improve the social security system and service system for persons with disabilities. The Outline established the following general objectives of the development of the undertaking for persons with disabilities during the Twelfth Five-Year Plan period: bringing moderate all-round prosperity to persons with disabilities and markedly improving their conditions of participation and development; establishing the basic framework of social security system and service system for the disabled and markedly raising the security level and service capacity of such systems; improving the system of laws, administrative regulations and policies on the undertaking for persons with disabilities and safeguarding the political, economic, social, cultural and educational rights of persons with disabilities in accordance with law; strengthening organization construction and talent team building and raising the level of scientific and technological application and informatization of the undertaking for persons with disabilities; systematically carrying out disability prevention work and effectively controlling the occurrence and aggravation of disabilities; and promoting humanitarianism and creating an environment more conducive for persons with disabilities to fully participate in social life on an equal basis with others and to benefit from the achievements of economic and social development.

During the Twelfth Five-Year Plan period, especially after the Eighteenth National Congress of the CPC, China has continuously improved the system for the safeguarding of the rights of persons with disabilities, preliminarily established a basic public service system and markedly improved the living and development conditions of persons with disabilities. The adoption and implementation of laws and policies depends on the understanding by the government and society of basic national conditions, especially the current situation and concrete needs of persons with disabilities. In this respect, survey and statistical work is very important.

The nation-wide special surveys on the situation of basic services for and the needs of persons with disabilities began on January 1, 2015. In a period of three months, over one million investigators carried out one-on-one survey of all registered disabled persons with disability certificates and about 30 million suspected children with disabilities who have been registered but temporarily not been issued disability certificates throughout the countries. The emphases of the survey included: the current conditions of service and the need for underpinning services of persons with disabilities in such areas as livelihood assistance, social security, rehabilitation services, assistive devices, education, employment support, nursing and care service, poverty alleviation through development, housing security, barrier-free reconstruction and protection of rights and interests.

This survey was different from the previous ones in many ways. Before this survey, China carried out two national sampling surveys on persons with disabilities in 1989 and 2006. As far as the social background of this survey is concerned, with economic and social development, we had better social basis to provide better treatments to persons with disabilities, which in turn created favorable conditions for carrying out better survey.

The protection of the rights of persons with disabilities is an organic component of the human rights undertaking in China. As a developing country with a huge

population, China is still faced with the tough task of poverty alleviation. Chinese President Xi Jinping has promised that China will lift all poor people in the country out of poverty by the year 2020. PRC has entered into the final stage of precision poverty alleviation at which lifting persons with disabilities out of poverty is considered the priority among priorities.

In February 2015, the State Council issued the Opinions on Accelerating the Process of Bringing Moderate Prosperity to Persons with Disabilities, outlining a series of important measures, including establishing a basic livelihood safeguarding mechanism for persons with disabilities, strengthening the social assistance to persons with disabilities, establishing a subsidy system to provide living expenses to disabled persons in need and to pay the nursing costs of persons with severe disabilities, establishing an assistance mechanism for providing rehabilitation services to children with disabilities and helping people with disabilities participate in basic old-age insurance and basic medical insurance.

In May 2015, the Ministry of Human Resources and Social Security and CDPF jointly issued the Notice on Implementing the Program on Vocational Skill Improvement for Persons with Disabilities (2016–2020), which has raised the following requirements: ensuring that all persons with disability newly entered into the human resource market have at least one vocational training opportunity and those on technical posts take part in at least one skill-upgrading training program.

In September 2015, the State Council issued the Opinions on Establishing a Full Scale System of Living Subsidies for Disabled Persons with Financial Difficulties and Nursing Subsidies for Persons with Serious Disabilities, which establish the first national system of special welfare and subsidy for persons with disabilities. The system benefits 10 million disabled persons with financial difficulties and 10 million severely disabled persons and become an important basic livelihood guaranteeing system that meets the basic needs of persons with disabilities and helps those in the greatest difficulty.

In August 2016, the State Council issued the Outline of the Program for Accelerating the Process of Bringing Moderate Prosperity to Persons with Disabilities during the Thirteenth Five-Year Plan (hereafter referred to as the Outline) after it was signed by Prime Minister Li Keqiang. According to the Outline, the Chinese Government will help all poor people with disabilities in rural areas lift themselves from poverty by the year 2020, strive to achieve a greater than 6.5% average annual growth rate of *per capita* disposable income of families with disabled members greater than that of ordinary families; and ensure that persons with disabilities generally enjoy basic housing, basic old-age insurance, basic medical services and basic rehabilitation service, so that they will be guaranteed of basic livelihood, taken proper care of when at home and enjoy more convenience outside of their homes. The Outline clearly points out that the problems faced by the group of persons with disabilities are still the most difficult problems to be solved in the process of building a well-off society in an all-round way. The objectives set forth in the Outline are: by the year 2020, the construction of the system for safeguarding the rights and interests of persons with disabilities will be basically completed, the basic public service system will be further improved, the development of the undertaking for persons with disabilities will be

coordinated with economic and social development, the level of social security and public service for persons with disabilities will be markedly raised, and persons with disabilities will be able to benefit from the fruits of building a moderately prosperous society in an all-round way. The Outline stresses the people's livelihood and requires government organs at various levels to treat poor persons with disabilities as the key targets in the battle against poverty, adopt targeted policy measures and provides precision assistance, so as to ensure that poor persons with disabilities are lifted out of poverty on schedule.⁷ The Outline provides for not only general targets and measures, but also concrete quantitative indicators, so as to bring tangible benefits to persons with disabilities. For example, the Outline sets forth the target of raising the level of education for persons with disabilities by providing disabled children and teenagers from poor families with 12-year free education covering nine-year compulsory education and three-year high-school education.

From the above, we can see that China has incorporated the rights of persons with disabilities into the mainstream of national and social development, both in legislation and in policy-making, and continuously promoted the right to development of persons with disabilities as the priority among priorities in the protection of the human rights of persons with disabilities.

Achievements and Challenges

In the opinions of the author of this book, one of the important characteristics of the socialist human rights outlook with Chinese characteristics is that it never discusses human rights in isolation, but analyzes and discusses them in conjunction with development, the rule of law and other social dimensions that are inseparable from human rights. Attaching importance to the rights to subsistence and development actually reflects the law that underlies the evolution of human society, namely human rights and development are inseparable from each other. In the field of protection of the rights of persons with disabilities, this law is embodied in the basic people-oriented approach of promoting human rights through development.

China has won universal praise from the international community for the great efforts and the huge achievements it has made in safeguarding the human rights of persons with disabilities. CFPD and other organizations of persons with disabilities in China have been given over a dozen awards by the UN and other international organizations, including the "Peace Messengers Award," "Special Award of United Nations Decade of Disabled Persons," "Award for Outstanding Contribution to 25 Years of UN-China Cooperation," and "Special Award of Asian and Pacific Decade of Disabled Persons." In 2003, Mr. Deng Pufang, then chairman of the CDPF, became the first Chinese and the first disabled Chinese to be awarded the United Nations Human Rights Prize.

⁷ For more discussions on targeted poverty alleviation, see Jia Yujiao, "Actively Promoting Targeted Poverty Alleviation for Persons with Disabilities in Rural Areas," and Xu [4].

In recent years, China has made prominent achievements in safeguarding the rights of persons with disabilities in the following aspects⁸:

Firstly, the system of protection of rights and interests of people with disabilities has been constantly improved. Since August 2012, the State Council has successively promulgated the Regulations on the Construction of a Barrier-free Environment and the Opinions on Accelerating the Process of Bringing Moderate Prosperity to Persons with Disabilities. The Supreme People's Procuratorate and the China Federation of the Disabled jointly issued the Opinions on Effectively Protecting the Disabled Persons' Lawful Rights and Interests in Procuratorial Work. The state has established and improved mechanisms for the provision of legal assistance to the disabled, offering free, timely and convenient legal services for them.

Secondly, persons with disabilities are covered by social security. By 2015, the state had established a living subsidy system for the financially challenged disabled population and nursing care allowances for the severely disabled across the country. There were 10.885 million people with disabilities in both urban and rural areas receiving minimum subsistence allowances, nearly 22.3 million people with disabilities in both urban and rural areas participating in social endowment insurance schemes and 3.023 million urban disabled dwellers participating in basic medical insurance schemes. During the period of 2012–2015, vocational training was provided to a total of 1.452 million disabled persons, 1.239 million urban disabled persons obtained employment, and a national online employment service platform for the disabled was launched, 4.962 million impoverished people with disabilities in rural areas were lifted out of poverty and 3.17 million poor disabled residents in rural areas received practical skills training, with the planned targets achieved in advance. The central government allocated a total of 3.74 billion yuan in rehabilitation and poverty-relief interest-deducted loans to support 219,000 impoverished disabled people. The state subsidized the renovation of dilapidated houses of 1.175 million rural households with disabled members.

Thirdly, the rehabilitation service for people with disabilities has been continuously enhanced. By the end of 2015, a total of 222,000 communities had established rehabilitation stations across the country. From 2012 to 2015, 8.544 million people with disabilities received community rehabilitation services. 12.466 million received basic rehabilitation services, achieving the expected goal ahead of schedule. From 2011 to 2015, the central government appropriated 432 million yuan to support rehabilitation training for 36,000 autistic children living in poverty. The supporting devices network covering both urban and rural areas has gradually been improved, offering 6.655 million supporting devices of various types.

Fourthly, the state implemented the Special Education Promotion Program (2014–2016) in an effort to fully expand the reach of special education and guarantee the ability and the quality of education and teaching. In 2015, there were 2053 special education schools nationwide, with a total enrolment of 442,200 students and 50,300 full-time teachers. From 2012 to 2015, the central government appropriated 925 million yuan as a special education subsidy. The state carried out “the Special

⁸ Information Office of the State Council [5, 6].

Education School Construction (Second Phase) Project” and allocated more than 2.442 billion yuan to support the infrastructure construction of 61 secondary vocational schools and vocational higher education institutions for people with disabilities and special normal schools for higher learning. In 2015, related departments issued the (Interim) Provisions on the Administrative of Disabled Persons’ Participation in the National College Entrance Examination, in an effort to guarantee disabled people’s right to receive education equally, and actively promoted the revision work on the Regulations on the Education of the Disabled to strengthen the legal guarantee. In 2012, the Notice on Strengthening Vocational Training for People with Disabilities to Promote Employment was promulgated to make sure that the disabled who wish to find a job can get relevant vocational training. Starting from 2014, the recruitment of disabled college graduates by Party and government organs, public institutions, state-owned enterprises and other units were guaranteed by policies. By the end of 2015, the state had set up reading rooms for people with visual impairments in public libraries at all levels, with an additional collection of 486,000 books in Braille and 21,000 seats in those rooms. The state hugely expanded the scale of publications in Braille. From 2011 to 2015, the state published 476 textbook titles with 692,000 copies in Braille printed, 5526 books for blind people with 1.3319 million copies printed, 1138 big-word books for people with poor eyesight with 1.1234 million copies printed, and 2400 types of audio books for the blind with a total length of 16,000 h. The expected goals were achieved ahead of schedule and exceeded. Some excellent publication projects for the blind people were included in the National Publication Plan. Any qualified project was supported by the National Publication Fund.

Fifthly, the state quickened the construction and renovation of barrier-free facilities. Related departments revised and implemented the Measures for the Administration of Air Transport for Persons with Disabilities and the Standards for Barrier-free Designs, issued the Guiding Opinions on Strengthening the Construction of a Barrier-free Environment in Villages and Towns, formulated and implemented the Requirements on Barrier-free Technologies for Website Design. Special seats for people with disabilities have been provided in all trains, and guide dogs have been allowed to board trains. The state has established additional barrier-free parking places on urban roads and in public parking areas within buildings and set up audio signal devices for people with visual impairments on pavement traffic signal facilities. It subsidized 573,000 families of the disabled to carry out renovation of barrier-free facilities. Of course, it still takes time for China, a developing country, to popularize the idea of accessibility and to construct and improve barrier-free facilities. On August 6, 2012, Mr. Wang Jinlei, a man with physical disability, tried to take a train at the Railway Station in Zhenzhou, the capital of Henan Province. However, the gate of the barrier-free passage to the train was locked and no railway station staff member with the key to the lock could be found. As a result, Mr. Wang missed his train. He filed a complaint to the management committee of railway station, which immediately apologized to him and paid him RMB 3000 yuan as compensation. Some experts believe that this was the first case of compensation under the Regulation on the Construction of Barrier-Free Environments since it came into force on August 1, 2012.⁹ In 2013,

⁹ Zhang Wanhong and Jiang Yitong (eds.), *supra* note 6, p. 110.

the Government Fuzhou Municipality of Fujian Province issued the second edition of the “Accessibility Map of Fuzhou” showing the barrier-free facilities in the city, as well as the mobile phone client version of the map.

China, as a developing country that has actively advocated the adoption, popularization and implementation of the Convention on the Rights of Persons with Disabilities, has made remarkable achievements and accumulated rich experiences in the development of the rule of law and human rights, including the protection of rights of persons with disabilities. Currently, China is faced with many challenges in the protection of rights of persons with disabilities. Meanwhile, responding to these challenges also present new opportunities.

Firstly, further improving the legal and policy system and advocating new concept of rights of persons with disabilities.

The issue of human rights is not only a political and legal issue, but also a social and cultural issue. What the Convention provides are not merely a kind of international principles and rules, but more importantly, a brand new human rights perspective and the concept of the rights of persons with disabilities. It advocates a new human rights culture based on the personal dignity of all human beings.

Therefore, the rights perspective is emphasized in the undertaking or the work for persons with disabilities, and this means a change of work paradigm or the enhancement of rights consciousness.

With respect to the safeguarding of the rights of persons with disabilities in a country, whether developed or developing, the UN Committee on the Rights of Persons with Disabilities focuses its attention not only on how much money the government has invested in persons with disabilities and what it has done for them, but also on such issues as whether this group of people are treated merely as the objects of relief, assistance and protection or as normal persons with dignity, adequate autonomy of choice, freedom of action and the opportunities to participate in the country’s development process and enhance their sense of self-fulfillment and accomplishment in this process.

Although mankind has a long history of civilization, the history in which all people are treated comprehensively and with respect for their dignity is not very long. The mainstreaming of human rights was proposed and advocated by the UN in the late 1990s. The mainstreaming of the rights of persons with disabilities occurred even later. Before that, such rights had been marginalized both domestically and internationally.

The adoption of the Convention and the recent UN 2030 Agenda for Sustainable Development have greatly accelerated the mainstreaming of the rights of persons with disabilities and drawn domestic and international attention to and improving public understanding of the rights of persons and therefore are of great significance to the further improvement of the system of laws and policies on the rights of persons with disabilities.

Therefore, in implementing the Convention and formulating and enforcing related domestic legislations and policies, we must have a clear consciousness of respecting and safeguarding the human rights of persons with disabilities and guide the relevant work with the purposes, the new definitions and new ideas contained the Convention, especially strengthen education and publicity, so as to enable the new outlook on the

rights of persons with disabilities to gain popularity in society and take root in the people's mind.

Secondly, further strengthening the domestic mechanism for the safeguarding of the rights of persons with disabilities. The safeguarding of the rights of persons with disabilities is an organic part of the domestic human rights safeguarding mechanism, as well as an independent field of human rights protection. The UN Committee on the Rights of Persons with Disabilities attaches high importance to the building of mechanisms for the implementation of the Convention by state parties, especially such issues as which agency or department is designated by the state party as the coordination center or connection point for the implementation of the Convention, how to coordinate the relationship between the central and local governments and between the federal government and various state governments, how to deal with the interaction between the government and social subjects, and how to listen to the opinions and suggestions of persons with disabilities in the implementation of the Convention.

Different countries have different political, legal and social systems. Many countries have established national human rights institutions. The UN has adopted a set of independent standards on national human rights institutions, namely the Paris Principles. Many countries, both developing and developed, have established such institutions, which have committed themselves to meeting the relevant standards of the UN. However, the establishment of a national human rights institution is not an end in itself. Issues such as whether to establish a national human rights institution and what kind of national human rights institution to establish should be decided not according to rigid standards, but in light of such considerations as whether it is compatible with national conditions and whether it is able to effectively promote the development of the human rights cause in the country. For example, a state should be able to decide whether to establish one comprehensive national human rights institution or several specialized national human rights institutions in different fields, how much independence such institutions should have (whether they should be subordinate to an organ of state power), whether they should have the capacity for dealing with, even trying individual cases, etc. The UN Paris Principles are overall and general summarization of experience or guidelines of constructive and reference nature. Its purpose and objective is to help different countries to establish mechanisms compatible with their national conditions and truly able to effectively promote human rights, rather to providing a simple or uniform model.

The practices of different countries show that ensuring the organic coordination between the government and social forces, listening to and respecting the opinions and demands of persons with disabilities, strengthening national top-level design and laying a solid foundation are important trends of the work of safeguarding the rights of persons with disabilities.

In China, the national-level institutions for guaranteeing the rights of persons with disabilities include the Working Committee on Disability under the State Council and CDPF—a mass organization composed of persons with disabilities, their relatives and friends and personnel working for them. Confirmed by law and approved by the State Council, CDPF is a unified organization for persons with all kinds of disabilities in the

whole country. Therefore, China has established a complete government mechanism for the work for persons with disabilities.

It should also be noted that “big government, small society” is a long-existing social pattern in China. The Chinese Government has always attached importance to the administration of mass organizations, which has been closely linked to specific stages and backgrounds of political, economic and social development. Today, governments at various levels have established the objective of strengthening the innovation of social mechanisms and social governance, attached more importance to classified administration of mass organizations, while at the same time endeavored to give full play to the positive and constructive role of domestic mass organizations.¹⁰ In this respect, CDPF can play a positive role in developing and guiding mass organizations in the field of disability.

Thirdly, seizing the development opportunity of the big data era to further strengthen statistical surveys in the field of disability.

The results of consideration of state party reports by the Committee on the Rights of Persons with Disabilities show that the Committee has always stressed the importance of statistical surveys on persons with disabilities and demanded state parties to strengthen the work relating to statistical surveys on the basic situation, livelihood and development of persons with disabilities. Moreover, it also stresses the establishment and implementation of a human rights-based survey and statistical system, for example the establishment of indicators and collection and processing of statistical data disaggregated by sex, race, health condition and other relevant categories.

The UN 2030 Agenda for Sustainable Development also stresses the statistical work, pointing out in Paragraph 57 that: “We recognize that baseline data for several of the targets remains unavailable, and we call for increased support for strengthening data collection and capacity-building in member states, to develop national and global baselines where they do not yet exist. We commit to addressing this gap in data collection so as to better inform the measurement of progress, in particular for those targets below which do not have clear numerical targets.”

To a developing country, especially a big developing country like China, the statistical investigation work in the field of human rights is a big challenge in human resource, material resources, time, energy and technology. Nevertheless, it has become the direction and trend of human rights work. In modern society, “having a head for figures” is the basis of correct decision-making and carrying out the work in the field of economic development and social progress.

The good news is that the Chinese Government has attached great importance to the statistical work in the field of disability and carried out several nationwide surveys, gradually developed its own systems, accumulated work experiences and trained a team of professional investigators, thus laying an important foundation for future work—although it still has a long way to go in this respect.

The development and application of Internet technology, especially the advent of the big data era, has provided important opportunities for China to strengthen the statistical work in light of its own national condition and development needs. This

¹⁰ Liu [7].

is an important opportunity for China, as a developing country, to overtake western countries “on a bend” in the information field. The Chinese judicial organs have applied the Internet technology in the field of judicial openness. For example, the Supreme People’s Court has, in accordance with the overall arrangements made by the CPC Central Committee for further deepening the reform of the judicial system, comprehensively advanced the construction of four platforms of openness, namely the platforms of openness of the trial process, trial activities, adjudicative documents and execution of judgments and achieved results that have astonished many experts in the western developed countries. It can be said that China still has great potential in the statistical work in the field of disability.

Fourthly, continuing to take the lead in implementing the UN 2030 Agenda for Sustainable Development and carrying out international exchange and cooperation on the basis of the Agenda and the Convention, so as to promote the realization of the rights of persons with disabilities. Although the mainstreaming of human rights has been put forward by the UN for quite some time, it was only recently that the proposal to mainstream the rights of persons with disabilities, especially to incorporate such rights in the international development agenda, was put forward. And very regrettably, the rights of persons with disabilities were not clearly mentioned in UN’s Millennium Development Goals.

In recent years, incorporating the rights of persons with disabilities into international development agenda has gradually become an international consensus. China, which has consistently taken the right to subsistence and the right to development as the primary human rights, is an active advocator, supporter and builder of this trend of development.

On September 23, 2013, the High-level Meeting of the General Assembly on Disability and Development was held at the UN Headquarters in New York. The meeting, attended by more than 800 representatives of UN member states, including some heads of state, and organizations of persons with disabilities, marked the opening of the 68th Session of the UN General Assembly. It was the first heads-of-state level meeting on disability issues in the history of UN.

In a speech given at the meeting, Ms. Zhang Haidi, chairwoman of the CDPF, pointed out that, in the age of globalization, the issue of disability has transcended the cultural and national boundaries and the common development goals can be realized only through international and regional cooperation. She put forward the following four proposals on strengthening the regional and international cooperation on the issue of disability: firstly, deepening the south–south cooperation while strengthening the south–north cooperation and incorporating the issue of disability into the main agenda of global economic and social development; secondly, giving priority to the issue of subsistence and development of persons with disabilities in developing countries in the international exchange and cooperation; thirdly, attaching importance to regional and subregional cooperation; and fourthly, increasing the assistance from

international development agencies and developed countries to developing countries for the development of the undertaking for persons with disabilities.¹¹

In August 2015, after more than two years of negotiation, the 193 UN member states reached a consensus on the Development Agenda beyond 2015. On September 1, 2015, the UN General Assembly adopted a resolution to formally submit the 2030 Agenda for Sustainable Development to the United Nations Summit on Development for deliberation and adoption. On September 25, 2015, the UN Summit on Development opened at the UN Headquarters in New York and with the strike of a gavel by Danish Prime Minister Rasmussen, the Chairman of the Summit, the document *Transforming our World: the 2030 Agenda for Sustainable Development* (also called Development Agenda beyond 2015) was formally adopted. In this document, the protection of the rights of persons with disabilities was finally directly and formally incorporated into new development agenda. The term “disability” or “persons with disabilities” is mentioned 11 times in this document in sections relating to non-discrimination, empowerment, education, employment, urban and community construction and international cooperation.¹² This document endeavors to realize the human rights of persons with disabilities through development by stressing and implementing these through the development discourse and in the form of the right to development and by transforming the abstract right to developing into concrete right to development.

On March 15, 2016, the first meeting of the inter-ministerial coordination mechanism for the implementation of UN 2030 Agenda for Sustainable Development was convened by Mr. Wang Yi, the Chinese Foreign Minister, to study and arrange for the implementation of the Agenda in China. The meeting was attended by 43 member units of the coordination mechanism, including CDPF, the National Development and Reform Commission, the Ministry of Education, the Ministry of Science and Technology and the Ministry of Commerce.

On April 19, 2016, the Chinese Government promulgated China's Position Paper on the Implementation of 2030 Agenda for Sustainable Development, which marked the start of the all-round implementation of the Agenda. The document clearly points out that: “Safeguarding equity and justice: improving people's well-being and promoting all-round human development should be the starting point and objective of development. Countries should put people first, strive to eradicate inequality in opportunity, distribution sharing and institution building, and ensure that development gains are fairly shared by all. Efforts should also be made to advance gender equality, empower women in all aspects, and earnestly strengthen protection of the rights of vulnerable groups including women, minors and the disabled.”¹³

¹¹ “UN General Assembly Shows Solicitation for the 100 Million Persons with Disabilities around the World,” in *Xinhuanet*, at: http://news.xinhuanet.com/gongyi/2013-09/25/c_125442358.htm, last visited April 30, 2017.

¹² UN Doc. A/RES/70/1.

¹³ For the full text of the document, see the Web site of Chinese Foreign Ministry, at: http://www.fmprc.gov.cn/web/ziliao_674904/zl_674979/dnzt_674981/qtzt/2030kcxfzyc_686343/t1357699.shtml, last visited April 30, 2017.

From the above, we can see that the adoption and implementation of the Development Agenda beyond 2015 is a model of the close combination of human rights and development and China, which has made prominent contributions to the realization of the UN's Millennium Development Goals and the formulation of the 2030 new agenda, will play an important role in the future implementation of the new agenda.

In conclusion, in the process of promoting the undertaking for persons with disabilities, China closely combines human rights and development, takes the right to subsistence and the right to development as the primary rights of persons with disabilities, proceeds from law and policies and their implementation, continuously strengthens the livelihood safeguards for persons with disabilities in such fields as employment and education, and while constantly strengthening domestic protection of the rights of persons with disabilities, strengthens international exchange and cooperation, promotes and responds to the UN development agenda and takes the lead in the implementation of the UN 2030 Agenda for Sustainable Development. The basic characteristics of, fundamental approaches to and important achievements made in the safeguarding of the rights of persons with disabilities by China have vividly reflected the Chinese practice of attaching importance to and realizing the right to development and the organic integration of development and human rights.

References

1. Li, J. (2015). The definition in the convention on the rights of persons with disabilities—Interpretation of the convention on the rights of persons with disabilities: Part II. *Disability in China*, 9.
2. Yang, J. Becoming a member of the committee on the rights of persons with disabilities: An honor as well as a responsibility. Available at the website of the Chinese Academy of Sciences, at: http://www.cas.cn/spzbl/yxjsjbgzh/zby/201104/t20110422_3120262.shtml. Last visited January 25, 2018.
3. Zhang, W., & Jiang, Y. (Eds.). (2015). *Equality, inclusiveness and development: A guide to rights advocacy of organizations of persons with disabilities* (pp. 73–74). Social Sciences Academic Press.
4. Xu, Q. (2016, August 17). From 'targeted poverty alleviation' to 'targeted support to persons with disabilities'. *Chinese Social Sciences Today*, p. 6.
5. Information Office of the State Council. (2016a). *Assessment report on the implementation of the national human rights action plan of China (2012–2015)* (pp. 59–61). Foreign Languages Press.
6. Information Office of the State Council. (2016b). *China's progress in poverty reduction and human rights* (pp. 20–21). People's Publishing House.
7. Liu, H. (2017). Social enterprises are providing new driving force for development. *China Economic and Social Forum*, 3.

China and International Human Rights Governance



The enjoyment of human rights is the common aspiration of people of all countries in the world. Through the ages, people with lofty ideals around the world have continuously deepened the understanding of human rights and advocated and promoted the progress of civilization and human society through concrete human rights practice. In the twenty-first century, with the further liberation of productive forces and the optimization and development of relations of production, mankind has reached unprecedented level and shown unprecedented potential in the protection of human rights.

Nevertheless, the realization of human rights has never been easy or spontaneous, but is the result of hard work, unremitting efforts and even bitter struggle by peoples of all countries. Today, the respect for and safeguarding of human rights is still faced with challenges as well as opportunities at both domestic and international levels.

On February 27, 2017, the newly elected UN Secretary, Mr. General António Guterres, pointed out in the speech given at the 34th Session of the Human Rights Council—his first speech given at the Council in his capacity as the UN Secretary General—that our world is becoming more dangerous, less predictable and more chaotic. New conflicts are multiplying. Old ones never die.¹

Currently, the development of international human rights cause is faced with traditional and new challenges, especially the great uncertainties brought about by many political, economic, scientific and technological factors. People hope that their hard-won progresses in human rights protection are irreversible, but world peace is not indestructible, and local wars and armed conflicts have not been effectively prevented and curbed; the development goals to further promote prosperity and eradicate poverty advocated by the UN remain to be arduous tasks; there is still no solution to the immigration and refugee crises which are becoming increasingly serious in some regions; unilateralism and conservatism are on the rise in some countries; the international community still has a long way to go in fighting against terrorism,

¹ Guterres [1].

racism, gender discrimination and other chronic social ills; and there is still no effective governance in many newly emerged fields that can have complicated impact on human rights, such as environmental protection, climate change, the Internet and medical technology.

As a Chinese saying goes, small streams rise when the main stream is high and vice versa. The international human rights cause is inseparable from the economic development and social progress in developing countries, including underdeveloped countries, and the positive, effective and constructive exchange and cooperation between governments. General international organizations represented by the UN have witnessed the development and progress of international human rights cause, as well as the risks and challenges faced by the international human rights cause, including the “governance deficit” in the field of human rights. In view of this situation, China has advocated the embodiment of Chinese wisdom in the safeguarding of human rights—a common cause of all mankind, that is: at the domestic level, relying on the people and adhering to a human rights road adapted to national conditions and serving the interests of the overwhelming majority of the people and, at the international level, working together with differently countries to establish international relations of a new type in the spirit of mutual respect, fairness, equality and mutually beneficial cooperation and to create a community of common destiny for mankind, adhering to multilateralism and strengthening dialogue and cooperation in the field of human rights, so as to realize win-win cooperation.

The United Nations and the Mainstreaming of Human Rights

The scourge of the two world wars that had brought untold sorrow to mankind and the atrocities committed by German Nazis and Japanese militarists during the World War II, including the Holocaust and the Rape of Nanking, had aroused the indignation of and prompted deep reflections by people all over the world. They had realized that there are close links between states’ brutal violations of human rights and their acts of aggression and between the respect for human rights and the maintenance of world peace.

At the Dumbarton Oaks Conference held in August–October 1944 in preparation for the establishment of the United Nations, delegations from Republic of China, the Soviet Union, the United Kingdom and the United States agreed on a US plan for “carrying out research and putting forward proposals on promoting the respect for human rights.” The Proposals for the Establishment of a General International Organization, ultimately adopted at the conference, proposed that: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of

international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms.”²

During the San Francisco Conference in 1945, the human rights issue was discussed by a subcommittee, which, while recognizing that the human rights issue is primarily an internal affair of a state, pointed out that serious violations of fundamental freedoms threatening or impeding the implementation of the United Nations Charter should not be regarded as purely the internal affair of a country.³ In fact all the principle victorious powers at that time had troublesome human rights problems of their own: The Soviet Union had its *gulag* system, the USA had its *de jure* racial discrimination, and the UK and France wanted to maintain their colonial empires. Therefore, they all had reservations in promoting human rights. Only some small countries and NGOs advocated the establishment of an effective international human rights protection system.⁴

The United Nations Charter was signed by 50 countries at the end of the San Francisco Conference on June 26, 1945. Poland ratified the UN Charter on October 15 of the same year. The Charter, which formally came into force on October 24, 1945, contains as many as nine separate provisions on the human rights issue, namely the Preamble, Article 1 (3), Article 13 (1) b, Article 55 (c), Article 56, Article 62 (2), Article 68, Article 73 and Article 67 (c), although all these provisions are cautiously worded, which are in line with the discreet and conservative characteristic of international law.

The Charter reaffirms in its Preamble the faith in fundamental human rights and in the dignity and worth of the human person and establishes “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” as one of the purposes of the United Nations. Apart from the Preamble, Article 55 and Article 56, all the other human rights-related stipulations in the Charter provide for the purposes and functions UN and its subsidiary organs, rather than the obligations of its member states. Article 55 of the Charter provides that: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: ...c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”⁵ And Article 56 of the Charter provides that: “All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.”⁶

² “Proposals for the Establishment of a General International Organization”, *Documents Pertaining to American Interest in Establishing a Lasting World Peace: January 1941–February 1946*, Pennsylvania: The Book Department, Army Information School, Carlisle Barracks, May 1946, p. 45.

³ Chen [2].

⁴ Buergenthal et al. [3].

⁵ *The Charter of the United Nations*, available at: <http://www.un.org/zh/documents/charter/chafter9.shtml>, last visited January 20, 2018.

⁶ Ibid.

During the 70 years since the founding of the UN, with the constant changing of the international situation and relations, the UN has become an important arena of multilateral diplomacy and the core of the international governance system. Peace, development and human rights are three main threads that have run through the development process of the UN and will continue to guide its future reform and development. The mainstreaming of human rights is a key work of the UN as well as an important trend in the international and domestic efforts in promoting human rights legislation and decision-making and their implementation and has been fully embodied in the legal development and institutional building of the UN.

On the basis of the International Bill of Human Rights consisting of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966), many international human rights conventions and other international human rights instruments have been adopted and developed, and the UN human rights mechanism has also been continuously improved. The currently effective core human rights conventions adopted under the framework of UN include: 1. International Convention on the Elimination of All Forms of Racial Discrimination (1965); 2. International Covenant on Civil and Political Rights (1966); 3. the International Covenant on Economic, Social and Cultural Rights (1966); 4. the Convention on the Elimination of All Forms of Discrimination against Women (1979); 5. the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); 6. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 7. the Convention on the Rights of the Child (1989); 8. the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; 9. the Convention on the Rights of Persons with Disabilities (2006) and 10. the International Convention for the Protection of All Persons from Enforced Disappearance (2006).

These conventions have greatly enriched the content of the legal framework of international human rights law and laid legal basis for the promotion of human rights work and establishment of human rights mechanisms by the UN.⁷

The establishment of the UN human rights system had caught the attention of Mr. John Humphrey, Director of the UN's Human Rights Division and a founding father of international human rights law. He anticipated at an early time the profound impact of international human rights law and believed that, because of the development of international human rights law, international law "is becoming not only new in content, but also its very character and structure is changing. Once purely horizontal in character because it governed only the relations of states, it has become vertical for it now reaches down to individual men and women. When a hundred years from now, historians write about international law in the twentieth century, they will say

⁷ The UN human rights treaty system can be further enriched and perfected. For example, the drafting of the Convention on the Rights of Older Persons has already been placed on the agenda of the UN. See Liu [4].

that these developments were the most important and the most radical in the history of the order.”⁸

Although the Vienna Declaration and Program of Action, adopted at the 1993 World Conference on Human Rights, does not specifically mention “the mainstreaming of human rights”, it has in fact raised such a demand by recommending high-level officials of relevant United Nations bodies and specialized agencies at their annual meeting, besides coordinating their activities, also assesses the impact of their strategies and policies on the enjoyment of all human rights.

In 1997, the then UN Secretary General Kofi Annan stressed the need for the mainstreaming of human rights in his report *Renewing the United Nations: A Programme for Reform*, pointing out that: “Human rights are integral to the promotion of peace and security, economic prosperity and social equity. For its entire life as a world organization, the United Nations has been actively promoting and protecting human rights...a major task for the United Nations, therefore, is to enhance its human rights programme and fully integrate it into the broad range of the Organization’s activities.”⁹

In a 2002 report entitled “Strengthening of the United Nations: an Agenda for Further Change”, Mr. Annan further elaborated on this issue: “The promotion and protection of human rights is a bedrock requirement for the realization of the Charter’s vision of a just and peaceful world. The rise and diffusion of human rights norms and conventions was one of the truly great achievements of the last century, and the United Nations was at the centre of that effort.”¹⁰ In his 2005 report “In Larger Freedom: Towards Development, Security and Human Rights for All”, Mr. Annan stressed that: “Indeed, human rights must be incorporated into decision-making and discussion throughout the work of the Organization. The concept of “mainstreaming” human rights has gained greater attention in recent years, but it has still not been adequately reflected in key policy and resource decisions.”¹¹

In fact, the establishment of the UN Human Rights Council, an important measure adopted by the UN to strengthen its work in the human rights field and to promote the reform and development of the UN, was in itself the result of mainstreaming of human rights, and it was, in turn, also conducive to further promoting the mainstreaming of human rights.

The resolution on the establishment of the UN Human Rights Council adopted at the 2005 World Summit points out that: “We resolve to support the further mainstreaming of human rights throughout the United Nations system” and that: “Pursuant to our commitment to further strengthen the United Nations human rights machinery, we resolve to create a Human Rights Council, to be responsible for

⁸ Humphrey [5].

⁹ UN Doc. A/51/950, paras. 78 and 79, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N97/189/78/IMG/N9718978.pdf?OpenElement>, last visited January 20, 2018.

¹⁰ UN Doc. A/57/387, para. 45, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/583/25/PDF/N0258325.pdf?OpenElement>, last visited January 20, 2018.

¹¹ UN Doc. A/59/2005, para. 144, available at: <http://www.un.org/chinese/largerfreedom/part4.htm>, last visited January 20, 2018.

promoting universal respect for the protection of all human rights and fundamental freedoms for all. The Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote effective coordination and the mainstreaming of human rights within the United Nations system.”¹²

Therefore, Chinese scholar Zhang Naigen holds that the newly established UN Human Rights Council, together with the existing Security Council and Economic and Social Council, forms the triple councils of the United Nations corresponding to the triple purposes of the United Nations—peace and security, development and human rights. The formation of this triple-council framework is a new approach to the reform of the UN that embodies the ideal of international rule of law.¹³ Indeed, a high-level panel on UN reform, in the report on the establishment of the UN Human Rights Council in 2004, proposed that: “In the longer term, Member States should consider upgrading the Commission to become a ‘Human Rights Council’ that is no longer subsidiary to the Economic and Social Council but a Charter body standing alongside it and the Security Council, and reflecting in the process the weight given to human rights, alongside security and economic issues, in the Preamble of the Charter.”¹⁴

In 2011, the UN General Assembly, in the resolution on the first review of the UN Human Rights Council, decided “to maintain the status of the Human Rights Council as a subsidiary body of the General Assembly and to consider again the question of whether to maintain this status at an appropriate moment and at a time no sooner than ten years and no later than fifteen years.”¹⁵ It is thus clear that the process of mainstreaming of human rights in UN has already begun, but has not yet met the expected goals, and will be continuously strengthened.

With the increasing advancement of the mainstreaming of human rights in the international community, there have been considerable and apparent crossovers and integrations between international criminal law, international labor law and international humanitarian law and human rights law. For example, for a long period of time, human trafficking had always been regarded as a criminal law issue and dealt with by the UN under the framework of international criminal judicial cooperation, rather than that of human rights mechanism. In recent years, however, the emphasis of the UN in this field has gradually shifted from preventing and fighting the crime to protecting the human rights and rights of the victims. The topic of fight against human trafficking has been discussed more and more from the human rights perspective.

¹² Resolution adopted by the General Assembly: 2005 World Summit Outcome, UN Doc. A/RES/60/1 (2005), paras. 126, 157–159, available at: http://mdgs.un.org/unsd/mdg/Resources/Static/Products/GAResolutions/60_1/a_res_60_1c.pdf, last visited January 20, 2018.

¹³ On the basis of Zhang [6].

¹⁴ A More Secure World: Our Shared Responsibility: Report of the High-level Panel on Threats, Challenges and Change, UN Doc. A/59/565 (2004), para. 291, available at: http://www.reclaimourrun.org/documents/documents/Amoresecureworld_000.pdf, last visited January 20, 2018.

¹⁵ Resolution adopted by the General Assembly: Review of the Human Rights Council, UN Doc. A/RES/65/281 (2011), para. 3, available at: http://www.un.org/zh/documents/view_doc.asp?symbol=A/RES/65/281, last visited January 20, 2015.

For example, the UN Economic and Social Council has recommended the “principle of the primacy of human rights” in the work against human trafficking.¹⁶

Not only the main organs of UN have actively incorporated the human rights perspective into their work, but various UN specialized agencies have also accelerated their reform and transformation in the trend toward the mainstream of human rights. For example, in 1998, UNICEF issued to all national project teams the UNICEF Guidelines for Human Rights-Based Programming, which for the first time systematically expounded the guidelines for human rights-based programming in the entire UNICEF system. In 1999, UNICEF adopted the policy document “A Human Rights Conceptual Framework for UNICEF”, which incorporates human rights into its work. One of the most prominent changes that have taken place in the process of mainstreaming of human rights is that many UN organs, NGOs and development agencies have shifted from the familiar “needs-based thinking and method” to the “rights-based” framework mode.¹⁷

Juxtaposing human rights, security and development as the three pillars of the reform and development is having a profound impact on the work of UN and its position and role in international community. The promotion of the organic combination and mutual promotion and supplementation of human rights, security and development is an important choice made by the UN in accordance with the UN Charter and Universal Declaration of Human Rights against the background of economic globalization in the advent of the new millennium.

China's Active Participation in the UN Human Rights Work

As a big developing country, a founding member of the United Nations, a permanent member of the UN Security Council, as well as a member of the UN Human Rights Council, China attaches high importance to the important role played by the UN in the international community. China has always participated in the human rights activities and work of the UN with a positive and responsible attitude, endeavored to promote the healthy development of the international human rights cause and been playing an increasingly important role in international human rights affairs.

Since 1979, China had sent delegations to attend sessions of the UN Human Rights Commission as observers for many consecutive years. In 1981, China was elected a member of the UN Human Rights Commission at the ECOSOC and has been consecutively reelected to the Commission ever since then. Since 1984, human rights experts recommended by China have continually been elected members and alternate members of the Sub-commission on Prevention of Discrimination and Protection of Minorities.

¹⁶ Recommended Principles and Guidelines on Human Rights and Human Trafficking, UN ECOSOC Doc. E/2002/68/Add.1, 2002, Guideline 1, available at: <http://www.un.org/ga/president/62/ThematicDebates/humantrafficking/N0240168.pdf>, last visited January 20, 2018.

¹⁷ Jonsson [7].

The double standard adopted by some western countries represented by the USA in the field of human rights has seriously affected the human rights work of the UN. For some period since 1990, western countries had proposed the so-called anti-China motions entitled “the Human Rights Condition in China” at the UN Human Rights Commission. In accordance with the rules of procedure of the Commission, China had responded to such motions with “no action motions”, requiring the Commission not to take any action, including discussion and voting, on the “anti-China motions” of western countries, thereby defeating the motions for 11 consecutive years and showing that such motions, which selectively condemned certain countries out of political motivation, had been very unpopular at the Commission.¹⁸

In September 1995, China successfully held the UN Fourth World Conference on Women and the ‘95 Nongovernmental Organizations Forum in Beijing—a milestone in the history of protection of women’s rights.

China’s efforts and achievements in the field of human rights have been recognized by the international community. In November 2003, China hosted the inter-governmental conference on the adoption of the Convention the Rights of Persons with Disabilities, organized by UN Economic and Social Commission for Asia and the Pacific. At the conference, the Beijing Declaration was adopted. China has been actively involved in and promoted the activities of the second “Asia and Pacific Decade of the Disabled (2003–2012)”. On December 10, 2003, Julian Hunte, chairman of the 59th Session of the United Nations General Assembly, presented the United Nations Human Rights Award to Mr. Deng Pufang, Chairman of the CDPF.

China has always supported UN peacekeeping operations with concrete actions. It began to send observers to participation in UN peacekeeping operations in 1989 and sent an 800-member engineering brigade to Cambodia in 1992. In January 2000, at the request of the United Nations, the Chinese Government dispatched 15 civilian policemen to the United Nations Transitional Authority in East Timor, the first time for China to send civilian policemen to UN peacekeeping operations. By January 24, 2018, China had dispatched more than 40,000 service members to various UN peacekeeping missions. Sixteen Chinese military peacekeepers and four Chinese policemen had sacrificed their lives in UN peacekeeping operations.

At the 2015 summit meetings commemorating the 70th anniversary of the United Nations, Chinese President Xi Jinping announced the establishment of a China-UN Peace and Development Fund for the purposes of supporting the work of UN, promoting multilateral undertakings and contributing to world peace and development. Since then, the fund has supported dozens projects in fields such as mediation and good office, peacekeeping and counter-terrorism capacity building, 2030 Agenda for Sustainable Development and refugees and migrants.¹⁹

As a state party to the Convention Relating to the Status of Refugees and its Protocol, China has actively participated in and supported United Nations-led efforts

¹⁸ Li and Tao [8].

¹⁹ “Foreign Ministry Spokesperson Hua Chunying Held a Regular Press Conference on January 24, 2018”, the Web site of the Chinese Foreign Ministry, at: http://www.fmprc.gov.cn/web/wjdt_674879/fyrbt_674889/t1528436.shtml, last visited March 9, 2018.

to protect refugees worldwide. On September 19, 2016, Chinese Prime Minister Li Keqiang attended the High Level Meeting on Addressing Large Movements of Refugees and Migrants—the highest level meeting on large movements of refugees and migrants ever hosted by the UN since its establishment. In a speech delivered at the meeting, Premier Li pointed out that large movements of refugees and migrants had triggered a series of political, economic, social and security problems. China was willing to assume its own responsibilities relating to this common challenge faced by the international community.²⁰ He promised that China would provide another US \$100 million in assistance in addition to the existing assistance.

In the past decades, China has conducted multi-round dialogues on the issue of human rights with many western countries, including the USA, UK, Australia and EU, invited human rights officials and experts from the UN and many countries to visit China and sent delegations to some countries to exchange opinions and views on issues of international human rights.

In 2006, the UN Human Rights Commission was replaced by the newly established UN Human Rights Council, with a view to overcoming the disadvantages of the Commission, such as the politicization, selectivity and antagonism in human rights discussions. China was elected a member of the first Human Rights Council and has been reelected to the Council consecutively many times.

The Chinese Government attaches high importance to its participation in the Universal Periodical Review work of the UN Human Rights Council. Apart from carefully reviewing of the human rights situations in other countries, it has also actively prepared and participated in the review of its own human rights situation. It received the first review by the Human Rights Council in 2009. The Council deliberated on and adopted the final document of universal periodical review on China at its eleventh session in June 2009. The Working Group on the Universal Periodic Review of the Human Rights Council carried out the second universal periodic review of China in Geneva on October 22, 2013. The author of this book made on-site observation of the review. Because too many representatives had signed up for speech at the review, each representative was allowed only 51 s of speaking time. A total 137 state representatives, including over 50 ambassadors, spoke at the review. 110 of them gave positive appraisal of the achievements made by China in their speeches. The Council adopted the final document on the universal periodical review of China on March 20, 2014. At the session of the Human Rights Council, the Chinese Government announced that, after careful study of the 252 recommendations received during the review, it decided to accept 204 or 81% of them, which involved issues in over 20 fields, including poverty reduction, education and judicial reform.

The third universal periodical review of China was held on November 6–9, 2018. The delegation of China, headed by the Vice Minister of Foreign Affairs, Le Yucheng, submitted to the Council China's national report on human rights, which comprehensively introduced the new achievements and new progresses made by China in the protection of human rights and announced 30 new measures China would take in the field of human rights. The delegation carried out dialogue with various parties in

²⁰ Li [9].

the spirit of openness, inclusiveness, honesty and cooperation, actively responded to suggestions and proposals put forward by various representatives, while at the same time refuting the groundless accusations made against China by a few countries. During the review, representatives of over 120 countries fully confirmed the great achievements made by China in promoting and protecting human rights, spoke highly of the human rights ideas and practices with Chinese characteristics and appreciated the important contributions made by China to the development of the international human rights cause.

Although the universal periodical review at the Human Rights Council is an intergovernmental process, it is actively participated by NGOs. For example, NGOs in China had made new progress in participating in the second universal periodical review of China. According to the rules of procedure of the UN, NGOs may organize side events during universal periodical review of a country to introduce and discuss the human rights conditions of the country. During the second universal periodical review of China, All-China Women's Federation, China Society for Human Rights Studies, China NGO Network for International Exchanges and other NGOs from China gathered together at Palais des Nations in Geneva and organized three side events on "The Promotion of Women's Rights by China", "Human Rights in China: An Integrated Approach" and "NGOs and Human Rights in China". Among the speakers at the side events were both Chinese human rights experts and NGO officials and foreign (Dutch and Swiss) scholars who had insightful views on the China issue. The author of this book attended these side events as an expert and got a personal experience of the activities through which Chinese NGOs introduced to the international community the concrete issues and development path of China in the field of human rights, made their voice heard as representatives of civil society and effectively enhanced the understanding of China by those from the outside world. Considering that the NGOs participating in the UN activities in the human rights field are mainly those with western background, the constructive work carried out by Chinese NGOs at UN is of great significance.

More and more grassroots NGOs in China are becoming active and begin to enter into international human rights arena. For example, Beijing Children's Legal Aid and Research Center and Zhicheng Public Interest Lawyers formed a joint delegation and participated in the entire process of the 35th Session of the UN Human Rights Council. In 2017, to respond to the UN Sustainable Development Goals and the Global Partnership to End Violence against Children initiated by UNICEF and other international organizations, Beijing Children's Legal Aid and Research Center, in conjunction with UNICEF China Office and Save the Children China Project, launched the nationwide program of Partnership to End Violence against Children in China and became the first Chinese partner of the Global Partnership to End Violence against Children. By the beginning of 2018, about 700 individuals and institutions from various fields in more than 30 provinces and municipalities directly under the Central Government had signed up to provide volunteer services under the program.

Each year, the UN General Assembly reelects 1/3 of the 47 members of the Human Rights Council. Members of the Council are elected for a term of 3 years and may serve for not more than two consecutive terms. A gap of one year is required for a

member to seek a new term after two consecutive terms. On November 12, 2013, the plenary session of the 68th UN General Assembly was held at the UN Headquarters in New York. At the session, an election was held for the members of the UN Human Rights Council. After a one-year gap following two consecutive terms, China was once again elected to the Council with a vote of 176 for the term of 2014–2016. On October 28, 2016, China was elected to the Council for the fourth time with an overwhelming majority vote of 180.

The fact that China has been elected as a member of the UN Human Rights Council many times with an overwhelming majority vote shows the high appreciation by countries around the world of the huge achievements made by the Chinese Government in the development of the human rights cause in the country and the important role it plays in international exchange and cooperation in the field of human rights, as well as the expectation of the international community for China, as a rising developing country, to play an even greater role in the UN, namely to continue to participate in a constructive way in the work of the UN Human Rights Council and other UN human rights mechanisms, advocate dialogue and cooperation and guide the international community to attach equal importance to all kinds of human rights and to deal with human rights issues in a fair, objective and non-selective manner.

For many years, China has actively participated in the drafting and formulation of international rules in the field of human rights. As a founding member of the UN, China participated in the formulation of the UN Charter, the Universal Declaration of Human Rights and a series of international human rights instruments, thereby making important contributions to the development of the system of international rules of human rights. China participated in the drafting of a series of human rights conventions, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Protection of the Rights of Persons with Disabilities and played a constructive role in the international negotiation of on climate change with the United Nations Framework Convention on Climate Change as the main channel, thus promoting the conclusion and coming into force of the Paris Agreement. Apart from the above-mentioned conventions, China has also participated in the drafting of a series of human rights documents, including the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action and the Declaration on the Right of Peoples to Peace. Based on the spirit of the UN Charter, China has put forward the Belt and Road Initiative and pressed forward with establishing international cooperation rules concerning the economy, environmental protection, health care, adolescents, the protection and development of children, cyberspace governance, anti-corruption and drug control.

Up to now, China has already ratified over 20 international human rights conventions and related protocols. Among the UN core human rights conventions, China still has not signed or ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the 2006

International Convention for the Protection of All Persons from Enforced Disappearance. Although the Chinese Government has already signed but not yet ratified the International Covenant on Civil and Political Rights, it is endeavoring to create the necessary conditions for the ratification of the covenant as soon as possible.

China cherishes the important role played by international human rights instruments in promoting and protecting human rights and conscientiously performs its obligations under the international human rights conventions that it has already ratified and acceded to. It submits timely reports on implementing the conventions to the treaty bodies concerned, holds constructive dialogues with these bodies, takes into full consideration the proposals they raise and adopts rational and feasible measures in light of China's actual conditions. For example, in 2012, China's first report on implementing the Convention on the Rights of Persons with Disabilities was approved. In 2013, China's third and fourth combined report on implementing the Convention on the Rights of the Child and China's first report on implementing the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict was approved. In 2014, China's second report on implementing the International Covenant on Economic, Social and Cultural Rights was approved, and China submitted its combined seventh and eighth periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women to the UN Committee on the Elimination of Discrimination against Women for review in the same year. In 2015, China submitted its sixth report on implementing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the UN Committee against Torture for consideration.

China, as a big developing country with a vast territory, huge population and complicated national conditions, is faced with many difficulties in periodically preparing national reports on the fulfillment of its obligations under various human rights conventions. In contrast to the phenomena of delaying or failing to submit state party reports and ignoring the dialogue with human rights treaty organs during the deliberation procedure, which have long plagued the UN human rights mechanism, China has been praised by the Committee on Economic, Social and Cultural Rights as a model for other state parties for its positive, responsible and constructive attitude toward its obligations under the covenant. The UN human rights mechanism is an integral system with the UN Charter as the basis, the Universal Declaration of Human Rights as the guiding principle, UN core human rights conventions as the framework and main content and a large number of resolutions and declarations of the UN General Assembly and the interpretative documents of UN human rights treaty organs as the supplements. In the current human rights system under the framework of the UN, the legal documents at each level are implemented through corresponding institutional building and procedural safeguards, and positive results have been achieved in standard-setting, implementation, supervision and advocacy. With rapid economic and social development, China's status and role in UN have become the focus of world attention. With the increasing importance attached by the UN to the human rights affairs and with the advancement of economic development, social progress and construction of the rule of law in the country, China will continuously deepen its participation in the UN human rights mechanism.

Actively Promoting International Human Rights Governance

In the late 1970s and early 1980s, Mr. Deng Xiaoping, the chief architect of China's reform and opening-up, adopted a low-key foreign policy, which was in line with China's national conditions and its need to effectively expand foreign exchanges and cooperation at that time and for a long period of time afterward. However, with the improvement of its comprehensive strength and the change of international situation, China has gradually put the adjustment of foreign policy on its agenda. As the country that has made the greatest contribution to the growth of the world economy, significantly increased the overall size and strength of its economy and continuously deepened its participation in international affairs and built its capacity for international governance in recent years, China is faced with increasingly greater expectations from the international community. As a result, the "major country diplomacy" has become a foreign policy option for China, meaning that China should shoulder more responsibilities and make more contributions to the international community.

In October 2017, Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era was formally established at the Nineteenth National Congress of the CPC. The report delivered at the Nineteenth National Congress of the CPC puts forward the concept of "major country diplomacy with Chinese characteristics" and the new idea of "fostering a new type of international relations and building a community with a shared future for mankind." It points out that China follows the principle of achieving shared growth through discussion and collaboration in engaging in global governance, stands for democracy in international relations and the equality of all countries, big or small, strong or weak, rich or poor, supports the United Nations in playing an active role in international affairs, supports the efforts of other developing countries to increase their representation and strengthen their voice in international affairs and will continue to play its part as a major and responsible country, take an active part in reforming and developing the global governance system and keep contributing Chinese wisdom and strength to global governance.

On March 11, 2018, new amendments to the Chinese Constitution were adopted at the First Session of the Thirteenth National People's Congress. According to the amendments, in paragraph 12 of the Preamble of the Constitution, the phrase "to the path of peaceful development, and to the reciprocal, win-win and open strategy" is added at the end of the sentence "China consistently carries out an independent foreign policy, and adheres to the five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence;" and the provision "in developing diplomatic relations and economic and cultural exchanges with other countries" is amended to read: "in developing diplomatic relations and economic and cultural exchanges with other countries and promoting the building of a community with a shared future for mankind." The above amendments show that building a community with a shared future for mankind is the result of the adherence to and development of the "Five Principles of Peaceful Coexistence" and other principles of

international relations advocated by China since the 1950s as well as the embodiment of the principles, purposes and ideals of the Chinese Constitution.

International exchange and cooperation in the field of human rights are important content of major country diplomacy with Chinese characteristics, and international human rights governance is an organic component of the international governance advocated by China.

Ever since the establishment of the Council in 2006, China has won every election for the membership of the UN Human Rights Council in which it had the opportunity to stand for election according to the rules of procedure.

Moreover, on October 28, 2016, the fact that China was elected as a member of the UN Human Rights Council for the fourth time with an overwhelming majority vote of 180 is enough to show the recognition by the international community of the achievements made by China in the development of human rights cause as well as the great expectations of many countries in the world on the role played by China in the field of international human rights.

The objectives and mode of international human rights governance determine whether different countries in the world and their people are able to participate in and realize international exchange and cooperation in the field of human rights in an equal, fair and just way and to jointly promote the healthy development of international human rights cause through the synergy of domestic efforts and international cooperation, whereas correct ideas are the premises of effective international governance.

In March, 2013, in an important speech given at the Moscow State Institute of International Relations in Moscow, Russia, Chinese President Xi Jinping pointed out that mankind, by living in the same global village in the same era where history and reality meet, has increasingly emerged as a community of shared future in which everyone has in himself a little bit of others.²¹ In recent years, Xi has discussed the idea of a community with shared future for mankind on many important international and national occasions.

Peace and development are the two themes of our times. The emphasis on the right to peace and the right to development is the prominent embodiment of the idea of a community with a shared future for mankind in the human rights field. In the congratulatory letter to 2015 Beijing Human Rights Forum, Party General Secretary Xi Jinping pointed out that China would unswervingly follow the path of peaceful development and steadfastly advance the human rights cause both in China and around the world. In the congratulatory letter to the International Symposium on the 30th Anniversary of the Adoption of the UN Declaration on the Right to Development on December 4, 2016, Party General Secretary Xi Jinping stressed that development is an eternal theme for the human race. The UN declaration affirms that the right to development is an inalienable human right. China will continue to make greater contribution to human development and progress and hopes the international society, with the UN 2030 Agenda for Sustainable Development as a new starting point, will strive to realize common development as it navigates a “fair, open, comprehensive

²¹ Xi [10].

and innovative” path. He pointed out that China has actively participated in global governance and made great efforts to promote inclusive development, striving to create conditions and opportunities for all countries, especially developing countries, so that they may share the fruits of development.²²

In September 2015, Chinese President Xi Jinping gave a speech at summit meetings commemorating the 70th anniversary of the United Nations, in which he comprehensively expounded the main connotation of the concept of a community with a shared future for mankind.

In January 2017, he attended a high-level meeting on “discussing and building a community of shared future for mankind” at Palais des Nations in Geneva, Switzerland, and delivered a keynote speech, entitled “Towards a community with shared future for mankind”. In his speech, Xi elaborated on the concept of a community of shared future for mankind in a profound, comprehensive and systematic way and called on the peoples of all countries to work together to push forward the great process. He advocated an open, inclusive, clean and beautiful world that enjoys lasting peace, universal security and common prosperity through dialogue and consultation, joint efforts, win-win cooperation and exchanges and mutual learning and by pursuing green and low-carbon development.²³ President Xi Jinping’s speech indicates the fundamental means of addressing current global challenges and has important implications for the improvement of international human rights governance.

On February 27, 2017, the day on which the 34th Session of the UN Human Rights Council opened, Chinese Foreign Minister Wang Yi published an article entitled “Working together to promote and protect human rights and jointly building a community with a shared future for mankind” in the newspaper *People’s Daily*. In the article, he reiterated the epochal topic of jointly building a community with a shared future for mankind on which Chinese President Xi Jinping had expounded in a deep-going way in a speech given at the United Nations Office at Geneva earlier that year, pointing out that the idea of a community with a shared future for mankind is deeply rooted in the Chinese civilization which goes back to ancient times, accords with the common aspiration of the international community for peace, development and cooperation, indicates the fundamental means of addressing current global challenges and has important implications for the improvement of international human rights governance.²⁴ Later that day, Mr. Ma Chaoxu, Permanent Representative of the People’s Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland, made a joint statement entitled “Promoting and protecting human rights and jointly building a community with a shared future for mankind” on behalf of 140 countries, pointing out that, to uphold world peace, realize common development and promote and protect human rights, countries in the world should jointly build a community with a shared future for mankind and

²² Xi [11].

²³ Xi [12].

²⁴ Wang [13].

an open, inclusive, clean and beautiful world that enjoys lasting peace, universal security and common prosperity.²⁵

China's proposition had caused major repercussions at the UN. On February 13, 2017, the UN Commission for Social Development unanimously adopted a resolution titled "Social Dimension of the New Partnership for Africa's Development", which calls on the international community to enhance the support for Africa's development in the spirit of win-win cooperation and to create a shared future, based upon our common destiny. This was the first time the idea of building a community with a shared future for mankind was written into a resolution of the United Nations. On March 17, 2017, the UN Security Council unanimously adopted the Resolution No. 2344 on the Situation in Afghanistan, which stresses the crucial importance of advancing regional cooperation in the spirit of win-win cooperation as an effective means to promote security, stability and economic and social development in Afghanistan and the region and to create a community with shared future for mankind.

On March 23, 2017, the UN Human Rights Council adopted at its 34th Session two resolutions—one on "economic, social and cultural rights" and the other on "the right to food"—which clearly express the determination of "building a community of shared future for mankind." This was the first time the important idea of "building a community of shared future for mankind" put forward by China was formally provided for in the resolutions of the UN Human Rights Council.

On March 23, 2018, the UN Human Rights Council adopted a resolution proposed by China—"Promoting mutually beneficial cooperation in the field of human rights". This resolution embodies the new understanding and new ideas of human rights of the most important human rights organ of the UN. It incorporates for the first time the idea of "fostering a new type of international relations and building a community with a shared future for mankind", into a UN document: It calls on all states to uphold multilateralism and to work together to promote mutually beneficial cooperation in the field of human rights by fostering international relations based on mutual respect, fairness, justice and mutually beneficial cooperation and building a community with shared future for mankind in which human rights are enjoyed by all. This document is a sign that the Chinese ideas have gradually become world ideas.

Some Chinese scholars hold that building a community with shared future for mankind, as an important guiding ideology of the foreign affairs work of China in a new era, contains profound international law ideas and connotations.²⁶ The concept and idea of building a community with shared future for mankind will have a profound impact on the interaction between domestic and international laws and the future of domestic and international rule of law. The idea of building a community with shared future for mankind also comes from the important Chinese discourse of constructing

²⁵ "Joint statement entitled 'Promoting and protecting human rights and jointly building a community with a shared future for mankind', made by Mr. Ma Chaoxu, Permanent Representative of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland, at the 34th Session of the UN Human Rights Council", the Web site of the Chinese Foreign Ministry, at: <http://www.fmprc.gov.cn/ce/cegv/chn/hyyfy/t1447149.htm>, last visited March 28, 2017.

²⁶ Li [14].

a fair and reasonable international human rights governance system. The concept and idea of a community with shared future for mankind are the crystallization of human wisdom and civilization and an important contribution made by China to the international human rights outlook.

China has taken active measures to put the idea of building a community with shared future for mankind into practice. By 2016, China had provided a total of RMB 400 billion yuan of foreign aid to other countries, given medical assistance to 69 countries, sent more than 600,000 aid workers to other countries and aided more than 120 developing countries in realizing the Millennium Goals. China's "Belt and Road" initiative also embodies China's contribution of its wisdom to the world, bringing more and more benefits to countries and peoples along the Belt and Road and in wider areas, enhancing win-win cooperation, fostering closer people-to-people ties and promoting local economic development, social progress and human rights protection.

China attaches high importance to the UN 2030 Agenda for Sustainable Development and promotes its implementation by leading the North-South cooperation and the South-South cooperation. Promoted by China, the G20 Hangzhou Summit in September 2016 realized the "two first times" in the G20 history: placing the issue of development in a prominent position in the global macro-policy framework for the first time and developing a collective Action Plan for the implementation of the UN 2030 Agenda for Sustainable Development for the first time. Today, the respect for and safeguarding of human rights is faced with many difficulties, obstacles and challenges around the world, especially in developing countries. On December 7-8, 2017, the South-South Human Rights Forum, organized by the Information Office of the State Council and the Chinese Foreign Ministry, was held in Beijing. The forum was attended by over 200 representatives from about 60 countries regions as well as international organizations, who carried out energetic discussions on important issues relating to the development of human rights in developing countries and around the world. Chinese President Xi Jinping sent a congratulatory letter to the Forum, which made China's voice heard on the issue of strengthening of the global human rights governance system in a new era: taking the people as the center, adhering to the unity of the universality and particularity of human rights, advancing development through cooperation while promoting human rights through development and building a community with shared future for mankind. This message plays an important enlightening and guiding role in the development of the human rights cause in developing countries, even in the whole world.

Just as Mr. Yu Jianhua, Permanent Representative of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland, pointed out in expounding the stands and propositions of the Chinese Government at the 37th Session of the UN Human Rights Council, under the objective of "fostering a new type of international relations and building a community with a shared future for mankind", China advocates the promotion of human rights through development, security, cooperation and fairness. China has always been a participator and a constructor of as well as a contributor to international human

rights governance and an actively promoter of the healthy development of international human rights cause.²⁷ This statement typically embodies the holistic idea in Chinese culture, namely human rights should not be discussed in isolation, but should be examined systematically in the framework of the advancement of civilization and social progress and organically linked to all relevant elements, so as to be effectively promoted. Therefore, China's contribution to international human rights governance is comprehensive, scientific and pragmatic.

Generally speaking, China has made important breakthroughs in the development of the socialist human rights outlook with Chinese characteristics on the basis of continuously strengthening institutional and theoretical innovation. China's basic positions on human rights issues are highly consistent with those of the international community, especially those of the UN. China advocates the comprehensive advancement of all human rights. Meanwhile, it also stresses that each country should choose a human rights development path suited to its own national conditions and take the people's rights to subsistence and development as the primary human rights; it holds that every country has room for improvement in protecting human rights; different countries should carry out constructive dialogue and cooperation in the field of human rights on the basis of equality and mutual respect; and China supports the UN Human Rights Council to carry out its work in accordance with the principles of objectivity, non-politicization, non-selectivity and non-confrontation. Especially, the idea of building a community with a shared future for mankind has laid a solid ideological and theoretical foundation for the international exchange and cooperation on human rights protection and chartered the course for the development of international human rights governance.

Under the correct guidance of the socialist human rights outlook with Chinese characteristics, China is not only advancing the development of domestic human rights cause in a planned and step-by-step way, but also actively participating in and promoting international human rights governance and contributing its wisdom to the healthy development of the international human rights cause.

References

1. Guterres, A. (2017, February 27). Remarks to the UN Human Rights Council. Available at: www.un.org/sg/en/content/sg/speeches/2017-02-27/secretary-generals-human-rights-council-remarks. Last visited March 28, 2017.
2. Chen, S. (1986). *International organizations: A study on the United Nations system* (pp. 219–220). China Friendship Publishing Company.
3. Buergenthal, T., Shelton, D., & Stewart, D. P. (2008). *International human rights in a nutshell* (4th ed., p. 21). In Z. Li (Trans.). Law Press China.
4. Liu, H. (2013). Preliminary studies on the adoption of the UN convention on the rights of older persons. In Chinese Society of International Law (Ed.), *Chinese yearbook of international law* (2012) (pp. 355–382). Law Press China.

²⁷ Yu [15].

5. Humphrey, J. (1989). *No distant millennium: The international law of human rights* (p. 203). UNESCO.
6. Zhang, N. (2014). On the triple councils of the United Nations. *Chinese Review of International Law*, 3.
7. Jonsson, U. Human Rights approach to development programming. Available at: http://www.unicef.org/rightsresults/files/HRBDP_Urban_Jonsson_April_2003.pdf. Last visited February 14, 2018.
8. Li, L., & Tao, T. (2006, March 17). That unforgettable spring 16 years ago: An interview with Mr. Chen Shiqu, an expert at the sub-commission on prevention of discrimination and protection of minorities. *People's Daily* (Overseas Edition).
9. Li, K. (2016, September 21). Speech at the high level meeting on addressing large movements of refugees and migrants (the 71st United Nations General Assembly). *People's Daily* (Overseas Edition).
10. Xi, J. (2014). Follow the trend of the times and promote global peace and development. In J. Xi (Ed.), *The governance of China* (p. 272). Foreign Languages Press.
11. Xi, J. (2016, December 5). The congratulatory letter to international symposium on the 30th anniversary of the adoption of the UN Declaration on the Right to Development. *People's Daily*, p. 1.
12. Xi, J. (2017, January 20). Towards a community of shared future for mankind: Speech at the United Nations office at Geneva. *People's Daily*, p. 2.
13. Wang, Y. (2017, February 27). Working together to promote and protect human rights and jointly building a community with a shared future for mankind. *People's Daily*, p. 21.
14. Li, Z. (2016). Doctrine of international law and ways to construct the community of common destiny for mankind. *Chinese Review of International Law*, 6.
15. Yu, J. Adhering to win-win cooperation and jointly promoting the development of human rights: A speech given at the general debate at the 37th high-level meeting of the UN Human Rights Council. Available on the website of the Chinese Foreign Ministry, at: <http://www.mfa.gov.cn/ce/cegv/chn/hyyfy/t1538414.htm>. Last visited March 9, 2018.

Bibliography

1. Xi, J. (2014). *The governance of China* (Vol. I). Foreign Languages Press.
2. Xi, J. (2017). *The governance of China* (Vol. II). Foreign Languages Press.
3. Li, B. (2005). *Human rights law*. Higher Education Press.
4. Li, B., & Sun, S. (2008). *Selected cases of human rights*. Higher Education Press.
5. Xu, X. (Ed.). (2004). *International human rights law*. Law Press China.
6. Bai, G. (2011). *Human rights law*. Peking University Press.
7. Project Team on Textbook on International Human Rights Law. (2002). *Textbook on international human rights law* (Vol. I). China University of Political Science and Law Press.
8. Bai, G., et al. (1996). *Human rights in international law*. Peking University Press.
9. Luo, H. (2010). *Theory and practice of soft law*. Peking University Press.
10. Luo, H., & Song, D. (2009). *Soft law is also law: Public governance demands the rule of soft law*. Peking University Press.
11. Dong, Y., & Chang, J. (Eds.). (2009). *Sixty years of construction of the human rights system in China*. Jiangxi People's Publishing House.
12. Li, L. (2010). *The exploration of the path to human rights*. Law Press China.
13. Liu, H. (2012). *Sixty years of protection and development of human rights in China*. China Social Sciences Press.
14. Gu, C. (2013). *Studies on the socialist human rights theory and practice with Chinese characteristics*. Renmin University of China Press.
15. Chen, Y. (2012). *Studies on the socialist human rights theory with Chinese characteristics*. China Procuratorial Press.
16. Liu, J. (2014). *Human rights: The Chinese road*. Five Continent Communication Press.
17. Liu, J. (2017). *The political development process in China: 2017*. Current Affairs Press.
18. Chang, J. (Ed.). (2015). *Safeguarding human rights in contemporary China*. Renmin University of China Press.
19. Xue, J., Chang, J., et al. (2016). *Studies on the road of development of human rights with Chinese characteristics*. China Social Sciences Press.
20. Xian, K. (2014). *Studies on the system of human rights theory with Chinese characteristics*. People's Publishing House.
21. The Supreme People's Court of the People's Republic of China. (2017). *Judicial reform of Chinese courts: 2013–2016*. The People's Court Press.
22. The Department of Treaty and Law of the Chinese Foreign Ministry. (Ed.). (2018). *Selected cases of the Chinese practice of international law*. World Affairs Press.

23. The Department of Treaty and Law of the Chinese Foreign Ministry. (Ed.). (2015). *The decade after the enshrinement of human rights in the Chinese constitution: 2004–2014*. World Affairs Press.
24. China Society for Human Rights Studies. (2015). *The Chinese dream: New developments of the human rights cause in China*. Five Continents Communication Press.
25. Liu, H. (2016). *Human rights knowledge: Core United Nations human rights conventions and mechanisms*. Hunan University Press.
26. Liu, N. (Ed.). (1994). *Developing countries and human rights*. Sichuan People's Publishing House.
27. Zeng, L., et al. (Eds.). (2015). *The implementation of international human rights conventions and the Chinese practice*. Wuhan University Press.
28. Chen, Z. (2017). *International cooperation in the field of human rights and the Chinese perspective*. China University of Political Science and Law.
29. Mo, J. (2005). *International human rights conventions and China*. World Affairs Press.
30. Dai, R. (2013). *Studies on the domestic application of international human rights treaties*. Social Sciences Academic Press.
31. Xiong, W. (2013). *Philosophical basis of human rights*. The Commercial Press.
32. Jia, Y. (Ed.). (2016). *On human rights: A special issue*. China Democratic and Legal Publishing House.
33. Sun, P. (2012). *Studies on the universal declaration of human rights*. Peking University Press.
34. Wang, X. (2002). *Fundamental human rights in a law-based society—Studies on the legal system of the right to development*. Chinese People's Public Security University Press.
35. Li, L. (2016). *The Chinese road of the rule of law*. China Social Sciences Press.
36. Qi, Y., et al. (2015). *The evolution of the concept of human rights*. Shandong University Press.
37. Chen, L. (2015). *Core values of the Chinese civilization: The evolvement of sinology and traditional values*. SDX Joint Publishing Company.
38. Gan, C. (2017). *A concise reader on the Chinese civilization*. China Social Sciences Press.
39. Zhang, Y., & Feng, W. (2017). *China's road of peaceful development*. China Social Sciences Press.
40. Chen, Z. (2008). *The ratification and implementation of the international covenant on civil and political rights*. China Social Sciences Press.
41. Sun, S. (2013). *The obligations of state parties to the international covenant on civil and political rights*. Social Sciences Academic Press.
42. Liu, H. (2000). *Studies on the international covenant on economic, social and cultural rights*. China Legal Publishing House.
43. Liu, H. (2005). *The asymmetry of states' obligations under the international covenant on economic, social and cultural rights*. Peking University Press.
44. Liu, H. (2008). *Studies on the justiciability of the international covenant on economic, social and cultural rights*. China Social Sciences Press.
45. Huang, J. (2011). *A reader on the domestic implementation of the international covenant on economic, social and cultural rights*. Peking University Press.
46. Huang, J. (2013). *Limitation of judicial protection of human rights: Studies on the justiciability of economic and social rights*. Social Sciences Academic Press.
47. Gong, X. (2013). *From the improvement of the people's livelihood to economic development: Studies on a new perspective of legal safeguarding of social rights*. Law Press China.
48. Wang, G. (2007). *Theory and practice of prohibition of torture—From the perspective of combination of international and domestic supervision mechanisms*. Shanghai People's Publishing House.
49. Wang, X. (2005). *On the rights of the child*. Social Sciences Academic Press.
50. Liu, H. (2008). *The rights of the child and legal protection*. Shanghai People's Publishing House.
51. Yuan, L. (Ed.). (2017). *Report on the situation of participation by children in China*. Social Sciences Academic Press.

52. China National Children's Center. (Ed.). (2017). *Parenting role of Chinese families*. Social Sciences Academic Press.
53. Wang, Z. (Ed.). (2015). *Rebuilding modern welfare system for children: China child welfare policy report 2014*. Social Sciences Academic Press.
54. Liu, J. (2010). *State responsibility and child welfare*. China Society Press.
55. Li, J. (Ed.). (2016). *Textbook on the law on the protection of rights of persons with disabilities*. China Renmin University Press.
56. Chen, M., & Huang, L. (2009). *An introduction to gender and law studies*. China Social Sciences Press.
57. Li, X., Li, A., et al. (2012). *Gender and law*. China University of Political Science and Law Press.
58. Chang, A. (2015). *Evolution of the constitutional system of a unified multi-ethnic country*. China Democratic and Legal Publishing House.
59. Guo, C. (2014). *Social security of persons with disabilities in China: From the human rights perspective*. China Human Resources and Social Security Publishing House.
60. Zhang, W., & Jiang, Y. (Eds.). (2015). *Equality, inclusion and development: A rights advocacy guide for disabled people's organizations*. Social Sciences Academic Press.
61. Zhao, S. (2012). *Theory and practice of protection of human rights of special groups in China*. Law Press China.
62. Tong, L. (2017). *A journey to the UN: The story of a Chinese NGO*. People's Publishing House.
63. Humphrey, J. (1992). *International human rights law* (P. Sen, Trans.). World Affairs Press.
64. Alfredsson, G., & Eide, A. (Eds.). (1999). *Universal declaration of human rights: A common standard of achievement* (China Society for Human Rights Studies, Trans.). Sichuan People's Publishing House.
65. Eide, A., et al. (2004). *Economic, social and cultural rights: A textbook* (China Society for Human Rights Studies, Trans.). Sichuan People's Publishing House.
66. Nowak, M. (2010). *Introduction to international human rights regime* (H. Liu, Trans.). Peking University Press.
67. Angle, S. C. (2012). *Human rights and Chinese thought: A cross-cultural inquiry* (J. Huang & B. Huang, Trans.). China Renmin University Press.
68. Sudo, M. (2010). *Evolution of "women's rights" in China: Human rights and gender in the late Qing Dynasty and the early Republic of China* (Y. Yao, Trans.). Social Sciences Academic Press.
69. Yasuaki, O. (2003). *Human rights, states and civilizations* (Z. Wang, Trans.). SDX Joint Publishing Company.
70. Human Security Network. (Ed.). (2005). *Manual on human rights education* (B. Li, Trans.). SDX Joint Publishing Company.
71. Sceats, S., & Breslin, S. (2012). *China and the international human rights system*. Chatham House.
72. Benedek, W. (2006). *Understanding human rights: Manual on human rights education* (2nd ed.). Neuer Wissenschaftlicher Verlag.
73. Wallence, R. (2001). *International human rights: Text and materials* (2nd ed.). Sweet & Maxwell.
74. Sano, H. O., & Alfredson, G. (Eds.). (2002). *Human rights and good governance: Building bridges*. Martinus Nijhoff Publishers.
75. Bayefsky, A. F. (Ed.). (2000). *The UN human rights treaty system in the 21st century*. Kluwer Law International.
76. Steiner, H. J., & Alston, P. (1994). *International human rights in context: Law, politics and morals (text and materials)*. Oxford Clarendon Press.
77. Alfredsson, G., Grimheden, J., Ramcharan, B. G., & de Zayas, A. (Eds.). (2001). *International human rights monitoring mechanisms: Essays in honour of Jakob Th. Möller*. Martinus Nijhoff Publishers.

Index

A

A community with a shared future for mankind, 8, 26, 215–220
Ageing, 110, 161–174, 178, 179
All-China Women's Federation, 93, 102, 109, 114, 126, 136, 169, 212
Amnesty, 83, 84
Anna Eleanor Roosevelt, 16
Anti-corruption, 80, 96, 97, 213
Anti-domestic violence law, 113, 114, 116, 136
António Guterres, 26, 107, 203

B

Barrier-free (accessibility), 196
Beijing Human Rights Forum, 27, 216

C

Charles Malik, 16
Charter of the United Nations, The, 205
Chen Duxiu, 15
China Disabled Persons' Federation, 167, 182, 185, 186
China National Committee on Ageing, 110, 166, 169
China National Human Development Report 2016, 1
China's Action Plan against Human Abduction and Trafficking, 113
Chinese Dream, The, 2–5, 11, 12, 37
Civil code, 19, 20, 41
Civil law, 6, 19, 20, 23, 41, 143
Climate change, 204, 213
Constitution, 2, 3, 6, 8, 12, 14, 16–20, 23, 71, 76, 80, 83, 90, 97, 103, 104, 110,

123, 142–146, 148, 151, 155, 170, 187, 215, 216

Constitutional amendments, 15, 18, 142
Constitution of the Communist Party of China, 2
Criminal Procedure Law, 7, 20, 21, 67–69, 72, 74, 81, 83, 88
Cultural rights, 10, 12, 26, 27, 31–36, 41, 45, 48, 57, 58, 60, 61, 63–65, 75, 80, 105, 167, 177, 189, 206, 214, 218

D

Deng Pufang, 193, 210
Deng Xiaoping, 11, 17, 215
Domestic violence, 107, 113, 116–118, 132, 136

E

Environmental protection law, 46, 58, 60
Environmental rights, 42, 46, 58, 60
Extorting a confessions through torture, 72

F

Family planning, 84, 134

G

G20, 27, 219
Gender equality, 101–111, 114, 117, 119, 137, 164, 170, 177, 200
Girl-child, 103

H

Hilary Clinton, 28

Human dignity, 177, 179
 Human rights education, 44, 56, 57
 Human rights education and training base,
 56, 57

I

Inner Mongolia, 140, 142, 146, 150, 152, 154
 International human rights governance, 25,
 27, 203, 215–217, 219, 220
 International human rights law, 25, 56, 102,
 103, 105, 162, 165, 177, 178, 206

J

John P. Humphrey, 16
 Joseph Biden, 28

K

Kofi Annan, 184, 207

L

Law on Regional Ethnic Autonomy, 143–
 145, 148, 151
 Law on the Protection of Minors, 23, 122–
 125, 128
 Law on the Protection of the Rights and
 Interests of the Elderly, 170, 171
 Law on the Protection of Women's Rights
 and Interests, 23, 110, 111, 114
 Left-behind children, 135–137
 Le Yucheng, 211
 Liang Huixing, 20
 Li Keqiang, 3, 192, 211

M

Ma Chaoxu, 217, 218
 Madrid International Plan of Action on
 Ageing, 162, 164, 166, 167
 Marriage law, 6, 102, 114, 125, 134
 Mass organization, 13, 24, 93, 97, 109, 125,
 126, 187, 197, 198

N

National human rights action plan, 10, 12,
 13, 23, 24, 36, 39, 44, 46, 48, 56, 60,
 63, 68, 70, 112, 115, 128, 130, 150,
 151, 171, 175, 177, 188

Non-governmental organization (NGO), 35,
 77, 78, 106, 107, 110, 164–166, 184,
 205, 209, 212

P

Paris Agreement, The, 213
 Paris Principles, The, 197
 Peng-chun Chang, 16
 Peng Zhen, 20, 68
 People's livelihood, 10, 24, 28, 36, 37, 48,
 60, 61, 173, 193
 Personal right, 56, 65, 71, 72, 81, 82, 110,
 116
 Poverty alleviation, 33, 37, 50, 109, 167,
 190–193
 Principle of the best interest of the child, the,
 123–125, 130, 133, 134
 Program for the Development of Chinese
 Children, 24, 126, 127
 Program for the Development of Chinese
 Women, 24, 112
 Property rights, 7, 19, 20, 41, 42, 71, 110,
 113, 128, 170
 Pursuit of fugitives, 84

R

Refugee, 203, 210, 211
 Regional ethnic autonomy, 139, 140, 142–
 145, 148, 151, 156, 158, 159
 Religious freedom, 74–76, 90, 170
 René Cassin, 16
 Reservation, 67, 69, 157, 205
 Right of expression, 65, 70, 79, 80, 94
 Right to development, 9, 12, 25–27, 36, 63,
 65, 80, 185, 186, 193, 199–201, 213,
 216
 Right to education, 43, 54, 130
 Right to fair trial, 22, 65, 73, 83, 97
 Right to health, 42, 52, 113
 Right to know, 58, 65, 70, 71, 76, 77, 91
 Right to participation, 76, 92, 124, 156
 Right to peace, 25, 216
 Right to social security, 40, 50
 Right to subsistence, 8, 9, 12, 17, 27, 33, 63,
 185, 199, 201
 Right to supervision, 70, 79, 80, 95
 Right to work, 37, 49, 187

S

Soft law, 77
 South-South cooperation, 27, 199, 219

Supervision law, [97](#)

T

Tibet, [141](#), [146](#), [152](#), [153](#), [155](#), [156](#)

U

UN 2030 Agenda for Sustainable Development, [25](#), [27](#), [179](#), [196](#), [198–201](#), [216](#), [219](#)

UN Human Rights Council, The, [8](#), [24](#), [25](#), [80](#), [159](#), [207–209](#), [211–213](#), [216–220](#)

Universal Declaration of Human Rights, [12](#), [15](#), [24](#), [32](#), [105](#), [177](#), [206](#), [209](#), [213](#), [214](#)

Universal Periodic Review, [159](#), [211](#)

V

Vienna Declaration and Program of Action, [23](#), [177](#), [207](#)

W

Wang Jiafu, [17](#)

Wang Liming, [19](#)

Wang Yi, [200](#), [217](#)

Wu Bangguo, [6](#), [19](#)

X

Xi Jinping, [2–5](#), [10](#), [18](#), [21](#), [22](#), [25–28](#), [37](#), [48](#), [60](#), [70](#), [75](#), [77](#), [83](#), [99](#), [108](#), [143](#), [150](#), [156](#), [157](#), [174](#), [192](#), [210](#), [215–217](#), [219](#)

Xin Chunying, [18](#)

Xinjiang, [51](#), [55](#), [141](#), [142](#), [146](#), [150](#), [152–157](#), [159](#)

Xu Xianming, [14](#), [18](#), [20](#)

Y

Yu Jianhua, [219](#)

Z

Zhao Zuohai, [21](#)